



भारत का राजपत्र

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No. 19] NEW DELHI, MAY 5—MAY 11, 2019, SATURDAY/VAISAKHA 15—VAISAKHA—21, 1941

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 26 अप्रैल, 2019

का. आ. 691.—दिल्ली विशेष पुलिस स्थापना अधिनियम 1946 (1946 के अधिनियम संख्या 25) के अनुभाग 6 के साथ पढ़े जाने वाले अनुभाग-5 के उप अनुभाग (1) द्वारा प्रदत्त शक्तियों के प्रयोग में केंद्र सरकार, हिमाचल प्रदेश की राज्य सरकार, गृह विभाग की सहमति अधिसूचना (अनुभाग ए) की अधिसूचना संख्या ग्रह (ए) ए (9) 31/ 2018 दिनांक 20 मार्च 2019, के तहत, दिल्ली विशेष पुलिस के सदस्यों के अधिकार व अधिकार क्षेत्र का विस्तार प्रथम सूचना रिपोर्ट संख्या 0133 दिनांक 16/11/2018 के अंतर्गत धारा 409, 419, 465, 466 तथा 471, भारतीय दंड संहिता, पुलिस थाना शिमला पूर्व, शिमला हिमाचल प्रदेश, के रूप में भी उसी के साथ जुड़े अन्य मामलों के लिए या किसी भी अपराध या प्रयास के संबंध में या उसके संबंध में अपराध या साजिश या उसी लेनदेन के दौरान किए गए अपराधों या अपराधों के संबंध में भारत संघ के

अधिकार क्षेत्र के भीतर किसी भी आपराधिक अधिनियम के तहत शामिल अपराधों के अन्वेषण के लिए संपूर्ण हिमाचल प्रदेश में किया जाता है।

[फा. सं. 228/47/2018-एवीडी-II]

एस.पी.आर. त्रिपाठी, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 26th April, 2019

S.O. 691.—In exercise of the powers conferred by sub section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Himachal Pradesh, Department of Home (Section-A) vide Notification No. Home (A)A(9)31/2018 dated 20/03/2019, hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Himachal Pradesh for investigation of FIR No. 0133 dated 16/11/2018 U/s 409, 419, 465, 466 & 471 IPC, Police Station Shimla East, Distt. Shimla, Himachal Pradesh as also for the other matters connected with the same and for any offence or attempt, abetment and conspiracy in relation to or in connection with the said offence or offences or offences committed in the course of the same transaction or arising out of the same facts including offences covered under any other Criminal Act within the jurisdiction of Union of India.

[F. No. 228/47/2018-AVD-II]

S.P.R. TRIPATHI, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 30 जनवरी, 2019

का. आ. 692.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है:-

उक्त प्रथम अनुसूची में:-

I) ‘मान्यताप्राप्त आयुर्विज्ञान अर्हता’ शीर्षक के अधीन [जिसे इसके आगे कालम(2) कहा गया है] “छत्रपति शाहूजी महाराज मेडिकल विश्वविद्यालय, लखनऊ” के सामने अंतिम प्रविष्टि के पश्चात और ‘पंजीकरण के लिए संक्षिप्तिकरण’ [जिसे इसके आगे कालम (3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा। अर्थात्:-

(2)	(3)
“डिप्लोमा इन ऑफस्टेट्रिक्स एंड गायनेकॉलोजी”	(डीजीओ) (यह एक मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह मोती लाल नेहरू मेडिकल कॉलेज, इलाहाबाद में केवल 2012 को या बाद में प्रवेश पाए छात्रों के संबंध में छत्रपति शाहूजी महाराज मेडिकल विश्वविद्यालय, लखनऊ द्वारा प्रदत्त होगी।)

[सं. सी-18018/6/2017-एमई-I/एफटीएस-3130920]

पी. के. बंदोपाध्याय, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 30th January, 2019

S.O. 692.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule-

a) against “Chhatrapati Sahuji Maharaj Medical University, Lucknow” under the heading ‘Recognized Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
“Diploma in Obstetrics & Gynecology”	(DGO) (This shall be a recognized medical qualification when granted by Chhatrapati Sahuji Maharaj Medical University, Lucknow in respect of students admitted at Moti Lal Nehru Medical College, Allahabad on or before 2012)

[No. C-18018/6/2017-ME-I/FTS-3130920]

P. K. BANDYOPADHYAY, Under Secy.

नई दिल्ली, 27 फरवरी, 2019

का.आ. 693.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956(1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है:-

उक्त प्रथम अनुसूची में:-

क) ‘मान्यताप्राप्त आयुर्विज्ञान अर्हता’शीर्षक के अधीन[जिसे इसके आगे कालम(2) कहा गया है] “आर्यभट्ट नॉलेज विश्वविद्यालय, पटना” के सामने अंतिम प्रविष्टि के पश्चात और ‘पंजीकरण के लिए संक्षिप्तिकरण’ [जिसे इसके आगे कालम(3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा. अर्थात्:-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन (जनरल मेडिसिन)”	एमडी (जनरल मेडिसिन) (यह एक मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह जवाहरलाल नेहरू मेडिकल कॉलेज, भागलपुर में केवल अकादमिक सत्र वर्ष 2013-14, 2014-15, 2015-16 और 2016-17 में प्रवेश पाए छात्रों के संबंध में आर्यभट्ट नॉलेज विश्वविद्यालय, पटना द्वारा प्रदत्त होगी।)

[सं. यू-12012/05/2019-एमई-I/3194671]

पी. के. बंदोपाध्याय, अवर सचिव

New Delhi, the 27th February, 2019

S.O. 693.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule-

a) against “Aryabhatta Knowledge University, Patna”, under the heading ‘Recognized Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading

‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely:

(2)	(3)
“Doctor of Medicine (General Medicine)”	MD (General Medicine) (This shall be a recognized medical qualification when granted by Aryabhatta Knowledge University, Patna in respect of students admitted at Jawaharlal Nehru Medical College, Bhagalpur in the academic year 2013-14, 2014-15, 2015-16 and 2016-17 only)

[No. U.12012/05/2019-ME-I/3194671]

P. K. BANDYOPADHYAY, Under Secy.

नई दिल्ली, 27 फरवरी, 2019

का.आ. 694.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है:-

उक्त प्रथम अनुसूची में:-

क) ‘मान्यताप्राप्त आयुर्विज्ञान अर्हता’शीर्षक के अधीन[जिसे इसके आगे कालम(2) कहा गया है] “केरल स्वास्थ्य विज्ञान विश्वविद्यालय, तृशूर” के सामने अंतिम प्रविष्टि के पश्चात और ‘पंजीकरण के लिए संक्षिप्तिकरण’ [जिसे इसके आगे कालम(3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा. अर्थात्:-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन(रेडियो डॉयग्नोसिस)”	एमडी (रेडियो डॉयग्नोसिस) (यह एक मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह गवर्नरमेंट मेडिकल कॉलेज, कोट्टायम, केरल 1 में केवल अकादमिक सत्र 2011-12, 2012-13, 2013-14 और 2014-15 अकादमिक सत्र में प्रवेश पाए छात्रों के संबंध में केरल स्वास्थ्य विज्ञान विश्वविद्यालय, तृशूर द्वारा प्रदत्त होगी।)

[सं. यू-12012/05/2019-एमई- I/3194671]

पी. के. बंदोपाध्याय, अवर सचिव

New Delhi, the 27th February, 2019

S.O. 694.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule-

a) against “Kerala University of Health Sciences, Thrissur”, under the heading ‘Recognized Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
“Doctor of Medicine (Radio-Diagnosis)	MD (RadioDiagnosis) (This shall be a recognized medical qualification when granted by Kerala University of Health Sciences, Thrissur in

respect of students admitted at Government Medical College, Kottayam, Kerala in the academic year 2011-12, 2012-13, 2013-14 & 2014-15 only).

[No. U-12012/05/2019-ME-I/3194671]

P. K. BANDYOPADHYAY, Under Secy.

नई दिल्ली, 1 अप्रैल, 2019

का.आ. 695.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956(1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है:-

उक्त प्रथम अनुसूची में:-

I) 'मान्यता प्राप्त आयुर्विज्ञान अर्हता'शीर्षक के अधीन [जिसे इसके आगे कालम(2) कहा गया है] "केरल स्वास्थ्य विज्ञान विश्वविद्यालय, तृश्शूर" के सामने अंतिम प्रविष्टि के पश्चात और 'पंजीकरण के लिए संक्षिप्तिकरण' [जिसे इसके आगे कालम(3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा. अर्थात्:-

(2)	(3)
"डॉक्टर ऑफ मेडिसिन (फिजिकल मेडिसिन एंड रिहैबिलिटेशन)"	(यह एक मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह गवर्नरमेंट मेडिकल कॉलेज, कोट्यूम में 2015 को या बाद में प्रशिक्षित किए गए छात्रों के संबंध में केरल स्वास्थ्य विज्ञान विश्वविद्यालय, तृश्शूर द्वारा प्रदत्त होगी।)

- नोट:** 1. दी गई ऐसी मान्यता अधिसूचना जारी होने की तारीख से अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।
 2. मान्यता के 'नवीकरण' की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।
 3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने पर, परिणामस्वरूप, निरपवाद रूप से, संबंधित स्नातकोत्तर कोर्स में प्रवेश बंद हो जाएगा।

[सं. यू-12012/93/2019-एमई-1/एफटीएस-3204216]

पी. के. बंदोपाध्याय, अवर सचिव

New Delhi, the 1st April, 2019

S.O. 695.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule-

- I) against "Kerala University of Health Sciences, Thrissur", under the heading 'Recognized Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
"Doctor of Medicine (Physical Medicine and Rehabilitation)"	MD (Physical Medicine and Rehabilitation) (This shall be a recognized medical qualification when granted by Kerala University of Health Sciences, Thrissur in respect of students

being trained at Government Medical College, Kottayam on or after 2015).

Note:

1. The recognition so granted shall be for a maximum period of 5 years from the date of notification, upon which it shall have to be renewed.
2. The procedure for 'Renewal' of recognition shall be same as applicable for the award for recognition.
3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admission to the concerned Postgraduate Courses.

[No. U-12012/93/2019-ME-I/3204216]

P. K. BANDYOPADHYAY, Under Secy.

नई दिल्ली, 1 अप्रैल, 2019

का.आ. 696.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956(1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है:-

उक्त प्रथम अनुसूची में:-

- I) 'मान्यताप्राप्त आयुर्विज्ञान अर्हता'शीर्षक के अधीन[जिसे इसके आगे कालम(2) कहा गया है] "आर्यभट्ट नॉलेज विश्वविद्यालय, पटना" के सामने अंतिम प्रविष्टि के पश्चात और 'पंजीकरण के लिए संक्षिप्तिकरण' [जिसे इसके आगे कालम (3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा. अर्थात्:-

(2)	(3)
"मास्टर ऑफ सर्जरी (जनरल सर्जरी)"	एमएस (जनरल सर्जरी) (यह एक मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह जवाहरलाल नेहरू मेडिकल कॉलेज, भागलपुर में 2016 को या बाद में प्रशिक्षित किए गए छात्रों के संबंध में आर्यभट्ट नॉलेज विश्वविद्यालय, पटना द्वारा प्रदत्त होगी।)

- नोट:** 1. दी गई ऐसी मान्यता अधिसूचना जारी होने की तारीख से अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।
 2. मान्यता के 'नवीकरण' की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।
 3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने पर, परिणामस्वरूप, निरपवाद रूप से, संबंधित स्नातकोत्तर कोर्स में प्रवेश बंद हो जाएगा।

[सं. यू-12012/92/2019-एमई-I/एफटीएस-3204209]

पी. के. बंदोपाध्याय, अवर सचिव

New Delhi, the 1st April, 2019

S.O. 696.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule—

- I) against "Aryabhatta Knowledge University, Patna", under the heading 'Recognized Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
“Master of Surgery (General Surgery)”	MS (General Surgery) (This shall be a recognized medical qualification when granted by Aryabhatta Knowledge University, Patna in respect of students being trained at Jawaharlal Nehru Medical College, Bhagalpur on or after 2016).

Note:

1. The recognition so granted shall be for a maximum period of 5 years from the date of notification, upon which it shall have to be renewed.
2. The procedure for ‘Renewal’ of recognition shall be same as applicable for the award for recognition.
3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admission to the concerned Postgraduate Courses.

[No. U-12012/92/2019-ME-I/FTS-3204209]

P. K. BANDYOPADHYAY, Under Secy.

नई दिल्ली, 1 अप्रैल, 2019

का.आ. 697.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956(1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है:-

उक्त प्रथम अनुसूची में:-

क) ‘मान्यताप्राप्त आयुर्विज्ञान अर्हता’शीर्षक के अधीन [जिसे इसके आगे कालम(2) कहा गया है] “आर्यभट्ट नॉलेज विश्वविद्यालय, पटना” के सामने अंतिम प्रविष्टि के पश्चात और ‘पंजीकरण के लिए संक्षिप्तिकरण’ [जिसे इसके आगे कालम(3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा। अर्थात्:-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन (जनरल मेडिसिन) ”	एमडी (जनरल मेडिसिन) (यह एक मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह श्री एणा मेडिकल कॉलेज, मुजफरनगर में 2016 को या बाद में प्रशिक्षित किए गए छाते के संबंध में आर्यभट्ट नॉलेज विश्वविद्यालय, पटना द्वारा प्रदत्त होगी।)

- नोट:** 1. दी गई ऐसी मान्यता अधिसूचना जारी होने की तारीख से अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।
 2. मान्यता के ‘नवीकरण’ की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।
 3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने पर, परिणामस्वरूप, निरपवाद रूप से, संबंधित स्नातकोत्तर कोर्स में प्रवेश बंद हो जाएगा।

[सं. यू-12012/85/2019-एमई-I/एफटीएस-3203849]

पी. के. बंदोपाध्याय, अवर सचिव

New Delhi, the 1st April, 2019

S.O. 697.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule-

I) against “Aryabhatta Knowledge University, Patna”, under the heading ‘Recognized Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
"Doctor of Medicine (General Medicine)"	MD (General Medicine) (This shall be a recognized medical qualification when granted by Aryabhatta Knowledge University, Patna in respect of students being trained as Sri Krishna Medical College, Muzzaffarpur on or after (2016).

Note:

1. The recognition so granted shall be for a maximum period of 5 years from the date of notification, upon which it shall have to be renewed.
2. The procedure for 'Renewal' of recognition shall be same as applicable for the award for recognition.
3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admission to the concerned Postgraduate Courses.

[No. U-12012/85/2019-ME-I/FTS-3203849]

P. K. BANDYOPADHYAY, Under Secy.

नई दिल्ली, 1 अप्रैल, 2019

का.आ. 698.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है:-

उक्त प्रथम अनुसूची में:-

I) मान्यताप्राप्त आयुर्विज्ञान अर्हता' शीर्षक के अधीन [जिसे इसके आगे कालम(2) कहा गया है] "ए.पी. सिंह विश्वविद्यालय, रीवा" के सामने अंतिम प्रविष्टि के पश्चात और 'पंजीकरण के लिए संधिस्तिकरण' [जिसे इसके आगे कालम(3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा. अर्थात्:-

(2)	(3)
"डॉक्टर ऑफ मेडिसिन (एनिस्थिसीयॉलोजी)"	एमडी (एनिस्थिसीयॉलोजी) (यह एक मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह श्याम शाह मेडिकल कॉलेज, रीवा में 2016 को या बाद में प्रशिक्षित किए गए छात्रों के संबंध में ए.पी. सिंह विश्वविद्यालय, रीवा द्वारा प्रदत्त होगी।)

नोट: 1. दी गई ऐसी मान्यता अधिसूचना जारी होने की तारीख से अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।

2. मान्यता के 'नवीकरण' की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।

3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने पर, परिणामस्वरूप, निरपवाद रूप से, संबंधित स्नातकोत्तर कोर्स में प्रवेश बंद हो जाएगा।

[सं. यू-12012/86/2019-एमई-I/एफटीएस-3203859]

पी. के. बंदोपाध्याय, अवर सचिव

New Delhi, the 1st April, 2019

S.O. 698.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule-

I) against "A.P. Singh University, Rewa", under the heading 'Recognized Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
“Doctor of Medicine (Anaesthesiology)”	MD (Anaesthesiology) (This shall be a recognized medical qualification when granted by A.P. Singh University, Rewa in respect of students being trained at Shyam Shah Medical College, Rewa on or after 2016).

Note:

1. The recognition so granted shall be for a maximum period of 5 years from the date of notification, upon which it shall have to be renewed.
2. The procedure for ‘Renewal’ of recognition shall be same as applicable for the award for recognition.
3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admission to the concerned Postgraduate Courses.

[No. U-12012/86/2019-ME-I/FTS-3203859]

P. K. BANDYOPADHYAY, Under Secy.

नई दिल्ली, 1 अप्रैल, 2019

का.आ. 699.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है:-

उक्त प्रथम अनुसूची में:-

I) ‘मान्यताप्राप्त आयुर्विज्ञान अर्हता’ शीर्षक के अधीन [जिसे इसके आगे कालम (2) कहा गया है] “डॉ. एन.टी.आर. स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा” के सामने अंतिम प्रविष्टि के पश्चात और ‘पंजीकरण के लिए संक्षिप्तिकरण’ [जिसे इसके आगे कालम (3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा। अर्थात्:-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन (फिजियॉलॉजी)”	एमडी (फिजियॉलॉजी) (यह एक मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह भास्कर मेडिकल कॉलेज, येंकापल्ली में 2018 को या बाद में प्रशिक्षित किए गए छात्रों के संबंध में डॉ. एन.टी.आर. स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा द्वारा प्रदत्त होगी।)

- नोट:** 1. दी गई ऐसी मान्यता अधिसूचना जारी होने की तारीख से अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।
2. मान्यता के ‘नवीकरण’ की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।
3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने पर, परिणामस्वरूप, निरपवाद रूप से, संबंधित स्नातकोत्तर कोर्स में प्रवेश बंद हो जाएगा।

[सं. यू-12012/87/2019-एमई - I/एफटीएस-3203869]

पी. के. बंदोपाध्याय, अवर सचिव

New Delhi, the 1st April, 2019

S.O. 699.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule :-

I) against “Dr. NTR University of Health Sciences, Vijayawada”, under the heading ‘Recognized Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
“Doctor of Medicine (Physiology)”	MD (Physiology) (This shall be a recognized medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada in respect of students being trained at Bhaskar Medical College, Yenkapally on or after 2018).

Note:

1. The recognition so granted shall be for a maximum period of 5 years from the date of notification, upon which it shall have to be renewed.
2. The procedure for ‘Renewal’ of recognition shall be same as applicable for the award for recognition.
3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admission to the concerned Postgraduate Courses.

[No. U-12012/87/2019-ME-I/FTS-3203869]

P. K. BANDYOPADHYAY, Under Secy.

नई दिल्ली, 1 अप्रैल, 2019

का.आ. 700.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है:-

उक्त प्रथम अनुसूची में:-

I) ‘मान्यताप्राप्त आयुर्विज्ञान अर्हता’ शीर्षक के अधीन [जिसे इसके आगे कालम (2) कहा गया है] “राजस्थान स्वास्थ्य विज्ञान विश्वविद्यालय, जयपुर” के सामने अंतिम प्रविष्टि के पश्चात और ‘पंजीकरण के लिए सक्षिप्तिकरण’ [जिसे इसके आगे कालम (3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा। अर्थात्:-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन (इम्युनो हेमाटॉलोजी एंड ब्लड ट्रांसफ्यूजन) ”	एमडी(इम्युनो हेमाटॉलोजी एंड ब्लड ट्रांसफ्यूजन) (यह एक मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह एसएमएस मेडिकल कॉलेज, जयपुर में 2018 को या बाद में प्रशिक्षित किए गए छात्रों के संबंध में राजस्थान स्वास्थ्य विज्ञान विश्वविद्यालय, जयपुर द्वारा प्रदत्त होगी।)

- नोट:** 1. दी गई ऐसी मान्यता अधिसूचना जारी होने की तारीख से अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।
 2. मान्यता के ‘नवीकरण’ की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।
 3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने पर, परिणामस्वरूप, निरपवाद रूप से, संबंधित स्नातकोत्तर कोर्स में प्रवेश बंद हो जाएगा।

[सं. यू-12012/89/2019-एमई-I/एफटीएस-3203975]

पी. के. बंदोपाध्याय, अवर सचिव

New Delhi, the 1st April, 2019

S.O. 700.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule :-

I) against "Rajasthan University of Health Sciences, Jaipur", under the heading 'Recognized Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
"Doctor of Medicine (Immuno Haematology & Blood Transfusion)	MD (Immuno Haematology & Blood Transfusion) (This shall be a recognized medical qualification when granted by Rajasthan University of Health Sciences, Jaipur in respect of students being trained at SMS Medical College, Jaipur on or after 2018).

Note:

1. The recognition so granted shall be for a maximum period of 5 years from the date of notification, upon which it shall have to be renewed.
2. The procedure for 'Renewal' of recognition shall be same as applicable for the award for recognition.
3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admission to the concerned Postgraduate Courses.

[No. U-12012/89/2019-ME-I/FTS -3203975]

P. K. BANDYOPADHYAY, Under Secy.

नई दिल्ली, 1 अप्रैल, 2019

का.आ. 701.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है:-

उक्त प्रथम अनुसूची में-

I) 'मान्यताप्राप्त आयुर्विज्ञान अर्हता'शीर्षक के अधीन [जिसे इसके आगे कालम(2) कहा गया है] "एनआईएमएस विश्वविद्यालय, जयपुर" के सामने अंतिम प्रविष्टि के पश्चात और 'पंजीकरण के लिए संक्षिप्तिकरण' [जिसे इसके आगे कालम (3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा. अर्थात्:-

(2)	(3)
"मजिस्टर चिर्लर्ग (न्यूरो सर्जरी)"	एमसीएच(न्यूरो सर्जरी) (यह एक मान्यता प्राप्त आयुर्विज्ञान अर्हता होगी जब यह नेशनल इंस्टीट्यूट मेडिकल सांइंसिस एंड रिसर्च, जयपुर राजस्थान में 2018 को या बाद में प्रशिक्षित किए गए छात्रों के संबंध में एनआईएमएस विश्वविद्यालय, जयपुर द्वारा प्रदत्त होगी।)

- नोट:**
1. दी गई ऐसी मान्यता अधिसूचना जारी होने की तारीख से अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।
 2. मान्यता के 'नवीकरण' की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।
 3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने पर, परिणामस्वरूप, निरपवाद रूप से, संबंधित स्थातकोत्तर कोर्स में प्रवेश बंद हो जाएगा।

[सं. यू-12012/90/2019-एमई-I/एफटीएस-3203976]

पी. के. बंदोपाध्याय, अवर सचिव

New Delhi, the 1st April, 2019

S.O. 701.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule :—

I) against “NIMS University, Jaipur”, under the heading ‘Recognized Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely:—

(2)

(3)

“Magister Chirurgiae (Neuro Surgery)”

M.Ch (Neuro Surgery)

(This shall be a recognized medical qualification when granted by NIMS University, Jaipur in respect of students being trained at National Institute of Medical Science & Research, Jaipur, Rajasthan on or after 2018).

Note:

1. The recognition so granted shall be for a maximum period of 5 years from the date of notification, upon which it shall have to be renewed.
2. The procedure for ‘Renewal’ of recognition shall be same as applicable for the award for recognition.
3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admission to the concerned Postgraduate Courses.

[No. U-12012/90/2019-ME-I/FTS -3203976]

P. K. BANDYOPADHYAY, Under Secy.

नई दिल्ली, 1 अप्रैल, 2019

का.आ. 702.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956(1956 का 102) की धारा 11 की उप- धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती हैः—

उक्त प्रथम अनुसूची में—

I) ‘मान्यताप्राप्त आयुर्विज्ञान अर्हता’ शीर्षक के अधीन [जिसे इसके आगे कालम (2) कहा गया है] “पश्चिम बंगाल स्वास्थ्य विज्ञान विश्वविद्यालय, कोलकाता” के सामने अंतिम प्रविष्टि के पश्चात और ‘पंजीकरण के लिए संक्षिप्तिकरण’ [जिसे इसके आगे कालम(3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा. अर्थात्:—

(2)

(3)

“मास्टर ऑफ सर्जरी (ऑफ्थॉलमॉलोजी)”

एमएस(ऑफ्थॉलमॉलोजी)

(यह एक मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह मिदनापुर मेडिकल कॉलेज, मिदनापुर में 2016 को या बाद में प्रशिक्षित किए गए छात्रों के संबंध में पश्चिम बंगाल स्वास्थ्य विज्ञान विश्वविद्यालय, कोलकाता द्वारा प्रदत्त होगी।)

नोट: 1. दी गई ऐसी मान्यता अधिसूचना जारी होने की तारीख से अधिकतम 5 वर्ष के लिए होगी और उसके बाद इसका नवीकरण करवाना होगा।

2. मान्यता के ‘नवीकरण’ की प्रक्रिया वही होगी जो मान्यता प्रदान करने के लिए लागू होती है।

3. अपेक्षित मान्यता का समय से नवीकरण करवाने में विफल रहने पर, परिणामस्वरूप, निरपवाद रूप से, संबंधित स्नातकोत्तर कोर्स में प्रवेश बंद हो जाएगा।

[सं. यू-12012/88/2019-एमई-I/एफटीएस-3203974]

पी. के. बंदोपाध्याय, अवर सचिव

New Delhi, the 1st April, 2019

S.O. 702.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:-

In the said Schedule:-

I) against “West Bengal University of Health Sciences, Kolkata”, under the heading ‘Recognized Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
“Master of Surgery (Ophthalmology)”	MS (Ophthalmology) (This shall be a recognized medical qualification when granted by West Bengal University of Health Sciences, Kolkata in respect of students being trained at Midnapore Medical College, Midnapore. on or after 2016).

Note:

1. The recognition so granted shall be for a maximum period of 5 years from the date of notification, upon which it shall have to be renewed.
2. The procedure for ‘Renewal’ of recognition shall be same as applicable for the award for recognition.
3. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admission to the concerned Postgraduate Courses.

[No. U-12012/88/2019-ME-I/FTS -3203974]

P. K. BANDYOPADHYAY, Under Secy.

नई दिल्ली, 1 अप्रैल, 2019

का.आ. 703.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956(1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, भारतीय आयुर्विज्ञान परिषद् से परामर्श करके उक्त अधिनियम की प्रथम अनुसूची में, निम्नलिखित, और संशोधन करती है:-

उक्त प्रथम अनुसूची में:-

‘मान्यताप्राप्त आयुर्विज्ञान अर्हता’ शीर्षक के अधीन [जिसे इसके आगे कालम (2) कहा गया है] “राजीव गांधी स्वास्थ्य विज्ञान विश्वविद्यालय, बैंगलुरु” के सामने अंतिम प्रविष्टि के पश्चात और ‘पंजीकरण के लिए संक्षिप्तिकरण’ [जिसे इसके आगे कालम(3) कहा गया है] से संबंधित प्रविष्टि के संबंध में निम्नलिखित अंतःस्थापित किया जाएगा. अर्थात्:-

(2)	(3)
“डिप्लोमा इन रेडियो डॉयलोग्राफीसिस”	डीएमआरडी (यह एक मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी जब यह विजयनगर इंस्टीट्यूट ऑफ मेडिकल साइंसेस, बेलारी, कर्नाटक में प्रशिक्षित किए जा रहे छात्रों और 2017-18

तक के बैच में प्रवेश पाए छात्रों के संबंध में राजीव गांधी स्वास्थ्य विज्ञान विश्वविद्यालय, बैंगलुरु द्वारा प्रदत्त होगी।)

[सं. यू-12012/96/2019-एमई-I/एफटीएस-3204253]

पी. के. बंदोपाध्याय, अवर सचिव

New Delhi, the 1st April, 2019

S.O. 703.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule :—

I) against “Rajiv Gandhi University of Health Sciences, Bangalore”, under the heading ‘Recognized Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted, namely:—

(2)	(3)
“Diploma in Radio-Diagnosis”	DMRD (This shall be a recognized medical qualification when granted by Rajiv Gandhi University of Health Sciences, Bangalore in respect of students being trained at Vijaynagar Institute of Medical Sciences, Bellary, Karnataka and students admitted upto the batches 2017-18).

[No. U-12012/96/2019-ME-I/FTS -3204253]

P. K. BANDYOPADHYAY, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 8 मई, 2019

का.आ. 704.—केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में उत्तर प्रदेश राज्य क्षेत्र के भीतर उक्त अधिनियम के अधीन भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड (बीपीसीएल) की बिना - पनकी पाइपलाईन परियोजना के सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए अतिरिक्त प्रभार पर श्री प्रेम नारायण सिंह, डिप्टी कलेक्टर, कानपुर, उत्तर प्रदेश को भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड में प्राधिकृत करती है।

यह अधिसूचना जारी होने की तारीख से लागू होगी।

[फा. सं. आर-11025(15)/3/2019-ओ आर-I/ई-29921]

शान्तनु धर, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 8th May, 2019

S.O. 704.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby authorizes Shri. Prem Narayan Singh, Deputy Collector, Kanpur, U.P on additional charge to Bharat Petroleum Corp. Ltd. (BPCL) to perform the functions of

Competent Authority(s) in the State of Uttar Pradesh for Bina-Panki pipeline project of M/s Bharat Petroleum Corporation Ltd. under the said Act.

This notification will be effective from the date of its issue.

[F. No. R-11025(15)/3/2019-OR-I/E-29921]

SANTANU DHAR, Under Secy.

वाणिज्य एवं उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 2 मई, 2019

का.आ. 705.—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एंव निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) के साथ पठित, निर्यात (गुणवत्ता नियंत्रण एंव निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, द्वारा संख्या : 8-45-9/2/1, B.C विध्या नगर कॉलोनी, चौथी गली, निकट (ओल्ड) सी वी आई डाउन, विशाखापट्टनम - 530003 को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए-

(क) खनिज और अयस्क – समूह 1, अर्थात्, लौह अयस्क, मैंगनीज अयस्क, फेरोमैंगनीज तथा बाक्साइट; और

(ख) खनिज और अयस्क – समूह 2, अर्थात्, क्रोम कंसन्ट्रेट सहित क्रोम अयस्क,

भारत सरकार के वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित, दिनांक 20 दिसम्बर, 1965 की अधिसूचना सं. का.आ. 3975 तथा दिनांक 20 दिसम्बर, 1965 की अधिसूचना सं. का.आ. 3978 के तहत प्रकाशित अधिसूचना में उपावद्ध अनुसूचियों में विनिर्दिष्ट क्रमशः उक्त खनिज और अयस्क का विशाखापट्टनम एवं गंगावरम पत्तन में निर्यात से पूर्व निरीक्षण करने के लिए निम्नलिखित शर्तों के अधीन एक अभिकरण के रूप में मान्यता देती है, अर्थात्:

(i) यह अभिकरण, खनिज और अयस्क समूह-1 के निर्यात (निरीक्षण) नियम, 1965 तथा खनिज और अयस्क समूह-11 के निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और

(ii) यह अभिकरण, इस अधिसूचना के अधीन अपने कार्यों के पालन में निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए ऐसे निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/3/2019-निर्यात निरीक्षण]

संतोष कुमार सारंगी, संयुक्त सचिव (निर्यात निरीक्षण विभाग)

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 2nd May, 2019

S.O. 705.—In exercise of the powers conferred by the sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognizes M/s Mitra S.K. Private Limited, Door no. 8-45-9/2/1/ B.C Vidyanaagar Colony, 4th Lane, Near Old CBI Down, Visakhapatnam – 530003, as an agency for a period of three years from the date of publication of this notification, for the inspection of—

- (a) Minerals and Ores-Group I, namely the Iron Ore, Manganese Ore, Ferromanganese and Bauxite ; and
- (b) Minerals and Ores-Group II, namely the Chrome Ore including Chrome Concentrate;

as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the official Gazette *vide* number S.O. 3975, dated the 20th December, 1965, and S.O. 3978, dated the

20th December, 1965 respectively, prior to export of the said Minerals and Ores at Visakhapatnam and Gangavaram Ports, subject to the following conditions, namely: -

- (i) the said agency shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores - Group I (Inspection) Rules, 1965 and Export of Minerals and Ores - Group II (Inspection) Rules, 1965;
- (ii) the said agency shall, in performance of its function as specified in this notification shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council, may give in writing from time to time.

[F. No. K-16014/3/2019 - Export Inspection]

SANTOSH KUMAR SARANGI, Jt. Secy. (Export Inspection Division)

विद्युत मंत्रालय

नई दिल्ली, 6 मई, 2019

का.आ. 706.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10, के उपनियम (4) के अनुसरण में विद्युत मंत्रालय के प्रशासनिक नियंत्राधीन राष्ट्रीय विद्युत प्रशिक्षण प्रतिष्ठान के जल विद्युत प्रशिक्षण केंद्र, नंगल पंजाब जिसके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

[सं. 11011/9/2017-हिंदी]

राज पाल, आर्थिक सलाहकार

MINISTRY OF POWER

New Delhi, the 6th May, 2019

S.O. 706.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notify the Hydro Power Training Centre, Nangal, Punjab of National Power Training Institute under the administrative control of Ministry of Power, where 80% of the staff have acquired working knowledge of Hindi.

[No. 11011/9/2017-Hindi]

RAJ PAL, Economic Adviser

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 1 मई, 2019

का.आ. 707.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एयर इंजिया सेट्स एयरपोर्ट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय एनक्युलम के पंचाट (संदर्भ संख्या: 7/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28/04/2019 को प्राप्त हुआ था।

[सं. एल-20013/02/2019-आई. आर. (सी-1)

एम. के. सिंह, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 1st May, 2019

S.O. 707.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Earnakulam (Ref. No. 7/2015) as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of M/s. Air India Sats Airport Services Pvt. Ltd. Limited and their workmen, which was received by the Central Government on 28.04.2019.

[No. L-20013/02/2019-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri. V. Vijaya Kumar, B. Sc., LLM, Presiding Officer

(Thursday the 7th day of March, 2019)

ID No. 7/2015

Sri. Sunil S, T.C No 71/1358,

Workman :
Shajan House, Valiyathura,
Vallakkadavu PO,
Thiruvananthapuram 695008.
By M/s Karukapadath Associates

Management:
Air India Sats Airport Services Pvt. Ltd.
Air India Building, Vellayambalam,
Thiruvananthapuram – 695010.
By Adv, R Lakshmana Iyer & Adv.T L Sreeram.

AWARD

The case came up for final hearing on 07.03.2019 and this Tribunal cum Labour Court on the same day passed the following:

1. The workman filed this petition under Section 2(A) of the Industrial Disputes Act 1947 with the prayer for setting aside the order of dismissal dated 22.06.2014 and pass consequential orders for re-instating the workman in service with all consequential benefits.
2. According to the petitioner he was appointed by the management as Ramp-Handi man with effect from July 2011 and continued to work with them till 22.06.2014. On 22.06.2014 he was prevented from discharging his duties stating that he is dismissed from service. The case of the petitioner is that the order of dismissal without even conducting a disciplinary inquiry is illegal and contrary to settled law.
3. The case of the management is that the workman was appointed on a fixed term contract from 29.06.2011 for a period of 3 years. On completion of 3 years term, the employer- employee relationship ceased to exist. Some action was initiated against the petitioner for unauthorised absence. In the meantime, on 28.06.2014 the fixed term contract of engagement of the workman stood expired and thereafter his engagement ceased to exist.
4. The petitioner workman filed certain documents and proof affidavit. However he failed to come forward to give evidence. There was no representation for the petitioner when the matter is posted for evidence and hence the petitioner is called absent and set ex parte. There was no representation for the management also for the last two postings and the management is also called absent and set ex parte.
5. It is felt that the petitioner is not interested in prosecuting the matter and hence an award is passed dismissing the claim.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Assistant, transcribed and typed by him and corrected and passed by me on this 07th day of March, 2019.

V. VIJAYA KUMAR, Presiding Officer

Appendix : Nil.

नई दिल्ली, 1 मई, 2019

का.आ. 708.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ओ.एन.जी.सी. लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद के पंचाट (संदर्भ संख्या 641/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28/04/2019 को प्राप्त हुआ था।

[सं. एल—20040/49/1995—आई. आर. (सी—1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 1st May, 2019

S.O. 708.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Ahmedabad (Ref. No. 641/2004) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC Limited and their workmen, which was received by the Central Government on 28.04.2019.

[No. L-20040/49/1995-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 13th March, 2019

Reference: (CGITA) No. 641/2004

The Officer on Special Duty, (Projects),
ONGC Ltd., Gandhar Project,
Ankleshwar (Gujarat)

...First Party

V/s.

Late Solanki Balvantbhai Devjibhai,
Legal Heir Akash Gohil
At and Post Sisodra, Tal. Ankleshwar,
Bharuch (Gujarat) - 394810

...Second Party

For the First Party : Shri C.S. Naidu
For the Second Party : Shri Prabhatsinh Parmar

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-20040/49/95-IR(C-I) dated 03.09.1996 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEME

“Whether Shri Solanki Balvantbhai Devjibhai is justified in claiming that he was an employee of Oil and Natural Gas Commission, Now Oil and Natural Gas Corporation Ltd., Gandhar Project, Ankleshwar and that his services were illegally terminated w.e.f. 03.03.1992? If so, to what relief the said workman is entitled and from which date?”

1. The reference dates back to 03.09.1996 and received on 19.09.1996 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, second party submitted the statement of claim Ex. 3 on 29.11.1996 and the first party ONGC Ltd. submitted the written statement Ex. 15 on 25.01.2001.

3. The second party workman Solanki Balvantbhai Devjibhai in his statement of claim Ex. 3 has alleged that he had been working as Khalasi in Oil and Natural Gas Corporation Ltd., hereinafter referred to as 'ONGC' in a high risk zone required and having special skills at high pressure oil wells. He used to work near the opening of the mouth of wells where a special type of oil valve known as Christmas Tree Valve are installed. The place of section in which he used to work is known as Exploration Business Group (EBG) logging reservoir section. He used to work for 12 hours a day; sometimes he was required to work for 24 hours or even for 48 hours continuously. He worked with fullest of efficiency, zeal, skill, responsibility and devotion but unfortunately, his services were terminated w.e.f. 03.03.1992 without giving reasons. He had been serving under direct guidance and supervision of ONGC but was wrongly treated as a contract labour while if-so-facto he had never been a contract labour as per the ingredients of Contract Labour (Regulation and Abolition) Act, 1970, hereinafter referred to as 'Act', because while engaged by the ONGC, he never obtained any licence for contract under the said Act nor the ONGC sanctioned him any contract to do contract work. The true facts were that the work was of a highly perennial nature and without performing the nature of his work, the exploration of oils from the oil wells were impossible. The extracted crude oil from the oil wells which he used to do was the essential business and monopoly of business of ONGC. He has further alleged that after termination of his service, the ONGC immediately thereafter on 03.03.1992 engaged fresh workmen with a monthly wages of Rs.887/- per month. The details of the workmen engaged after his termination are as under:

Serial No.	Name	Place of Residence
1	Sajid Usmangani	Hansot
2	Yadav Indrajit S.	Ankleshwar
3	S.C. Garbee	ONGC Colony
4	Madanlal	Bhatha
5	Jahir Hamid Rasul	Telva
6	Shaikh S.G.	Telva
7	R.B. Hansoti	Sajod
8	B.J. Patel	Adol
9	Jitendrasing Ravat	ONGC Colony
10	Ashwin Rana	Bharuch
11	Indrajit	Bharuch
12	Ashok	ONGC Colony
13	Basir Shaikh	Kapalsadi

Thus the termination of his service was being in violation of the provisions of Section 25 F, G and H of the Industrial Disputes Act, 1947, therefore, null and void. He has further alleged that the first party has devised a peculiar system of giving employment to the workmen by making minor changes in their names in the manner like Solanki Bachubhai D., Solanki Bansibhai D. and Solanki Bhanu D. The intention of the ONGC was only to deprive the workman the benefits of continuous of service. The workman worked for more than 240 days and was entitled for automatic permanent status after the completion of 180 days as provided in the certified standing order for contingent employee of ONGC. He has further alleged that he was being paid consolidated pay of Rs.870/- per month instead of regular pay scale of Khalasi being as 1156-25-1306-30-1456-35-1526. Thus he has prayed for declaring his termination of service as illegal, reinstatement with full back wages declaring him as permanent employee and any other relief as the Tribunal deems fit along with Rs.5000/- as expenses of the reference.

4. The first party ONGC in the written statement Ex. 15 submitted that the workman was not a permanent employee and he was a contingent employee, the services of which were governed by certified standing orders known as "Certified Standing Orders for Contingent Employees of ONGC", therefore, the workman being a contingent employees does not deserve the reliefs sought by him in his statement of claim.
5. The workman vide list Ex. 16 and Ex. 17 submitted the documents like Identity Cards showing him as contingent labour from 10.07.1991 to 30.07.1991, 04.04.1991 to 30.06.1991 and 23.07.1991 to 21.10.1991, summery of attendance from November 1990 to March 1992, type of wells where he worked etc. The second

party workman also submitted the copies of the office order regarding certified standing orders known as "Certified Standing Orders for Contingent Employees of ONGC".

6. The first party vide list Ex. 27 submitted the zerox copies of contingent bills of 01.06.1991 and 30.04.1992 showing that the expenditure involved in the payment of wages to the contingent workmen, casual labourers shall be met out of the budget under the relevant head of account.
7. The second party workman moved an application Ex. 20 for production of documents detailed in the application for the just disposal of case but the ONGC by way of affidavit submitted that the documents are not traceable.
8. On the basis of the pleadings, the following issues arise:
 - i. Whether Shri Solanki Balvantbhai Devjibhai is justified in claiming that he was an employee of Oil and Natural Gas Commission, Now Oil and Natural Gas Corporation Ltd., Gandhar Project, Ankleshwar and that his services were illegally terminated w.e.f. 03.03.1992?
 - ii. To what relief, if any, the concerned workman is entitled?
9. **Issue No. i and ii:** As both the issues are interrelated, therefore, are decided together. The burden of proof of these issues lies on the second party workman who was examined vide affidavit Ex. 12 reiterating the averments made in the statement of claim. In his cross-examination, he has stated that he applied by way of moving an application for job in ONGC but he has not proof of it because it would have been with ONGC. He did not face interview and was not given any appointment letter from ONGC. It is true that the permanent workmen of ONGC are used to be issued Identity Cards with the seal and signature of ONGC. He does not know that the permanent employees of ONGC are used to be given the pay slips every month and in the pay slips, the provident fund deduction are used to be shown. He admitted that his name was on the contingency of ONGC and wages are paid accordingly. He was paid the wages by way of vouchers and he was not employed as a permanent employee of ONGC. He was paid a fixed salary of Rs.887/- per month. He did not work as a workman of ONGC. He studied up to 12th standard. The details of pay slips would have been with ONGC. The ONGC used to obtain the Identity Card for deposition after the completion of work but the work he used to do was of a permanent nature but was discharged stating that the work has been completed. He has 5 family members which he used to sustain them.
10. The first party ONGC examined the witness named Ramchandra Devi Reddy vide document Ex. 25 reiterating the averments made in the written statement and in his cross-examination, he has stated that the work of retaining any person in job or terminating the job is done by R & P Section of ONGC. This workman never worked under him. He has no personal knowledge regarding him but he has admitted on the basis of record that this workman was not engaged through any contractor treating him as a contract worker but he was paid the wages through vouchers but wage register and muster roll are not being maintained regarding the contingency labour.
11. I heard the arguments of the advocates of the parties and considered the oral and documentary evidence of the parties available on the record. From the perusal of the evidence, it is clearly establishes that this workman worked for 2 years from 06.11.1990 to 03.03.1992 and the Para 14 of Certified Standing Orders for Contingent Employees of ONGC provides as under:

“(i) For terminating the employment of a workman, notice in writing shall be given in accordance with the provisions of the Industrial Disputes Act, 1947 provided that where a temporary workman is not entitled to one month's notice under the Industrial Disputes Act, he shall be given at least 7 days' notice for termination of employment. Alternatively, wages shall be paid in lieu of notice.

(ii) The services of a workman shall not be terminated as punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him in the manner prescribed in Clause 16.

(iii) Where the employment of any workman is terminated, the wages earned by him and other dues, if any shall be paid before the expiry of the second working days from the day on which his employment is terminated.”
12. The first party witness Ramchandra Devi Reddy has expressed ignorance regarding the service of any such notice on this workman. He has also expressed ignorance that after the termination of the workman, junior workmen were not engaged.
13. It is noteworthy that this workman has died of Carcinoma on 17.08.2017 as appears from the documents submitted by the legal heirs of the workman who have been ordered to be substituted vide application Ex. 35 on 09.04.2018.
14. The Gujarat High Court in SCA No. 3348 of 1988, 1997 (a), Guj. Law Reporter, Page 61, ONGC V/s Maheshwari Devi, has held that it would be discriminatory to not hold a person completing 180 days of attendance in a short period of 12 consecutive months would not be entitled for status of a temporary employee and also would not be entitled to the notice as provided under Clause 1 of the Standing Order No. 14 and such construction of the Standing Order would clearly militate against the right of equality before law enshrined in Article 14 of the Constitution of India and the right of equality in matters relating to employment as enshrined in Article 16 of the Constitution of India and may have the effect of rendering the Standing Order itself to be open to challenge under Articles 14 and 16 of the Constitution of India.

15. The first party referred M.P. State Agro Industry Development Corporation Ltd. V/s S.C. Pandey, 2006 SC C (L&S) 434, wherein it has been held that the post of temporary employee by way of recruitment procedure is a State Instrumentality. He has also referred State of M.P. V/s Arjunlal D., 2006 SC C (L&S) 429, reiterating the aforesaid law. Both these judgements are not applicable in this case and it is laughable that the advocate of the first party does not know the basis law. It is a well established law that the procedure of termination if it is given in the rules of organisation, then that shall be followed. Otherwise also where there has been contract between the employer and employee regarding which regulations are framed then those regulations must be obeyed.
16. In the present case, the ONGC framed/issued the Certified Standing Orders for Contingent Employees of ONGC and the Para 14 of it clearly states that the services of a workman shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct and also a workman who has completed 180 days in 12 consecutive months shall be considered a temporary workman and if he has completed 240 days in 12 consecutive months, he shall be considered for conversion as a regular employee. The workman in this case completed 2 years of service without any break, as the first party witness expressed ignorance regarding it, therefore, the termination of his service without any notice was illegal and he was also entitled for regularisation at the time of termination because he was not subjected to any departmental enquiry for any misconduct. The ONGC has failed to explain as to why he was not regularised. Thus the workman was entitled for reinstatement without any back wages on the principles of 'no work no pay'. However his legal heirs will be entitled for appointment in dying in harness rules if eligible.
17. Thus the issues are decided in the light of the observation made in Para 16. The legal heirs shall be entitled for back wages from the date of reinstatement till the date of death of the workman at the rate of wages admissible at that point of time.
18. The legal heirs of the workman may move an application before ONGC for appointment for dying in harness rules within a month from the publication of the award and the ONGC shall pass order on application within a month from the date of moving of application.
19. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 709.—औद्योगिक विवाद अधिनियम, (1947/1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट संदर्भ संख्या (114/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 प्राप्त हुआ था 1

[सं. एल-12012/45/98-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 709.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 114/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01/05/2019.

[No. L-12012/45/98-IR (B-1)]

B.S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,

Ahmedabad,

Dated 02nd April, 2019

Reference: (CGITA) No- 114/2004

The Manager,
State Bank of India, Main Branch, Bhadra,
Ahmedabad (Gujarat) – 380001

...First Party

V/s.

Shri Kishor S. Gupta,
C/o Gujarat Rajya General Kamdar Mazdoor Panchayat,
211, 2nd Floor, Relief Shopping Centre, Near GPO,
Ahmedabad (Gujarat) - 380001

... Second Party

For the First Party : Shri B.K. Oza

For the Second Party : Shri H.B. Mansuri

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/45/98-IR(B-I) dated 23.09.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of State Bank of India is justified in terminating the services of Shri Kishor S. Gupta w.e.f. 01.02.1993 and not considering for regular employment is justified? If not what relief the concerned workman is entitled to?”

1. The reference dates back to 23.09.1998 and received on 28.09.1998 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party submitted the statement of claim Ex. 5 on 21.12.1998 and the first party submitted the written statement Ex. 9 on 05.04.1999. The case was listed for argument.
3. On 02.04.2019, the second party workman Kishor S. Gupta and the first party State Bank of India, Ahmedabad submitted the settlement Ex. 23 vide application Ex. 22 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workman Kishorhai S. Gupta vide Bankers Cheque No. 355002 dated 30.03.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri H.B. Mansuri, advocate of second party workman vide Bankers Cheque No. 355001 dated 30.03.2019 and nothing has been left for further resolution. The said settlement Ex. 23 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 23 is accepted by the Tribunal.
4. Thus the reference is disposed of in the light of the settlement Ex. 23. The settlement Ex. 23 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 710.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 1270/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 को प्राप्त हुआ था।

[सं. एल-12012/539/98-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 710.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1270/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01/05/2019.

[No. L-12012/539/98-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 08th April, 2019

Reference: (CGITA) No- 1270/2004

1. The Chief General Manager,
State Bank of India,
7th Floor, Bhadra, Lal Darwaja,
Ahmedabad (Gujarat) – 380001
 2. The Zonal Manager,
State Bank of India,
7th Floor, Paradise Complex, Sayajigunj,
Baroda (Gujarat) – 394220
 3. The Manager,
State Bank of India,
Service Branch, 2nd Floor, Akshar Complex,
Behind Rang Upavan, Makkaipool,
Surat (Gujarat) – 395001
- ...First Parties

V/s.

Mr. Champakbhai Devjibhai Umarigar,
New Navsat Street, Village Umara,
Surat (Gujarat) - 395001

...Second Party

For the First Parties : Shri A.B. Gogia

For the Second Party : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/539/98-IR (B-1) dated 22.04.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the concerned workman Shri Champakbhai Devjibhai Umarigar has put in continuous service in the Bank as per provisions of Section 25-B?”

And

“Whether the action of the management of State Bank of India through its officers in terminating/discontinuing the services of the workman Shri Champakbhai Devjibhai Umarigar w.e.f. 14.01.1998 on/with the plea of abolition/cancellation of the waiting list of temporary employees is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 22.04.1999 and received on 09.06.1999 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, both the parties submitted their statement of claim and written statement as the case may be. The case was listed for cross-examination of parties.
3. On 08.04.2019, the second party workman Champakbhai Devjibhai Umarigar and the first party State Bank of India, Surat and others submitted the settlement Ex. 36 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workman Champakbhai Devjibhai Umarigar vide Demand Draft No. 427234 dated 04.04.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workman vide Demand Draft No. 427236 dated 04.04.2019 and nothing has been left for further resolution. The said settlement Ex. 36 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 36 is accepted by the Tribunal.
4. Thus the reference is disposed of in the light of the settlement Ex. 36. The settlement Ex. 36 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 711.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 1371/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 को प्राप्त हुआ था।

[सं. एल-12012/121/2001-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 711.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1371/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01/05/2019.

[No. L-12012/121/2001-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 08th April, 2019

Reference: (CGITA) No. 1371/2004

1. The Chief General Manager,
State Bank of India, L.H.O.,
Bhadra, Lal Darwaja, Ahmedabad
 2. The Regional Manager,
State Bank of India, Paradise Complex, Sayajigunj,
Baroda – 390005
 3. The Manager,
State Bank of India,
Timalya Wad Branch, Timalya Wad,
Surat (Gujarat)
 4. The Manager,
State Bank of India,
Service Branch, Second Floor,
Akshar Complex, Behind Rang Upvan,
Nanpura, Makaipul,
Surat (Gujarat) - 395003
- ...First Party

V/s.

Shri Dineshchandra Manilal Maisuriya,
Suthar Falia, at & Post Amari, Taluka,
Navsari (Gujarat)
For the First Parties : Shri A.B. Gogia
For the Second Party : Shri P.F. Baxi

...Second Party

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/121/2001-IR(B-I) dated 16.10.2001 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the concerned workman Shri Dineshchandra Manilal Maisuriya has put in ‘continuous service’ in the bank as per provisions of Section 25-B? If so, whether the action of the management of State Bank of India, Ahmedabad through its officers in terminating the services of the workman Shri Dineshchandra Manilal

Maisuriya w.e.f. 31.01.1997 with the plea of abolition/cancellation of the waiting list of temporary employees is justified? If not, what relief the concerned workman is entitled?"

1. The reference dates back to 16.10.2001 and received on 01.11.2001 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, both the parties submitted their statement of claim and written statement as the case may be. The case was listed for evidence of the second party.
3. The case was dismissed on 15.02.2017 in the absence of the evidence of the second party workman. The second party workman moved an application for restoration vide Misc. Application (CGITA) No. 28/2017 which is allowed on 08.04.2019 and the reference is restored to its original number.
4. On 08.04.2019, the second party workman Dineshchandra Manilal Maisuriya and the first party State Bank of India, Surat and others submitted the settlement Ex. 29 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workman Dineshchandra Manilal Maisuriya vide Demand Draft No. 774198 dated 05.04.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workman vide Demand Draft No. 774195 dated 05.04.2019 and nothing has been left for further resolution. The said settlement Ex. 29 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 29 is accepted by the Tribunal.
5. Thus the reference is disposed of in the light of the settlement Ex. 29. The settlement Ex. 29 shall remain the part of the award.
6. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 712.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के सबद्व नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 150/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 को प्राप्त हुआ था।

[सं. एल-12012/187/98-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 712.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 150/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01/05/2019.

[No. L-12012/187/98-IR (B)-1]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,

Ahmedabad,

Dated 02nd April, 2019

Reference: (CGITA) No- 150/2004

1. The Assistant General Manager,
State Bank of India,
Office Manager's Department, Local Head Office, Post Box No. 300,
Bhadra, Ahmedabad (Gujarat) – 380001
2. The Branch Manager,
State Bank of India, Branch Office, Bhadra,
Ahmedabad (Gujarat) – 380001

3. The Chief General Manager,
State Bank of India, Local Head Office, Bhadra,
Ahmedabad (Gujarat) – 380001

...First Parties

V/s.

Mr. Kantibhai S. Parmar,
Jaj Keshv Ni Chawl, Behind Nutah Mill,
Ahmedabad (Gujarat) - 380001

...Second Party

For the First Parties : Shri B.K. Oza

For the Second Party : Shri Prabhatsinh Parmar

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/187/98-IR(B-I) dated 13.01.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of State Bank of India is justified in terminating the services of Shri Kantibhai Somabhai Parmar by way of retrenchment vide order dated 19.11.1997 just after 3 months of settlement dated 05.08.1997 for reinstatement? If not, what relief the concerned workman is entitled to?”

1. The reference dates back to 13.01.1999 and received on 21.01.1999 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party submitted the statement of claim Ex. 5 on 15.12.1999 and the first party submitted the written statement Ex. 6 on 13.11.2000. The case was listed for argument.
3. On 02.04.2019, the second party workman Kantilal S. Parmar and the first party State Bank of India, Ahmedabad and others submitted the settlement Ex. 53 stating that the matter has been resolved by way of onetime payment of Rs.175000/- (Rupees One Lac Seventy Five Thousand) in the favour of second party workman Kantilal S. Parmar vide Bankers Cheque No. 759946 dated 26.03.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri Prabhatsinh Parmar, advocate of second party workman vide Bankers Cheque No. 759945 dated 26.03.2019 and nothing has been left for further resolution. The said settlement Ex. 53 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 53 is accepted by the Tribunal.
4. Thus the reference is disposed of in the light of the settlement Ex. 53. The settlement Ex. 53 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 713.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 1272/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 को प्राप्त हुआ था।

[सं. एल-12012/11/99-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 713.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1272/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01/05/2019.

[No. L-12012/11/99-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 08th April, 2019

Reference: (CGITA) No- 1272/2004

1. The Chief General Manager,
State Bank of India,
7th Floor, Bhadra, Lal Darwaja,
Ahmedabad (Gujarat) – 380001
2. The Zonal Manager,
State Bank of India,
7th Floor, Paradise Complex, Sayajigunj,
Baroda (Gujarat) – 394220
3. The Manager,
State Bank of India,
Udhna-Udognagar, P.B. No. 1,
Surat (Gujarat) – 394210

...First Parties

V/s.

Mrs. Savitaben Rameshchand Rana,
Near Hari Om Dying, J.P. Nagar,
2, Near Mangubhai Chatwale, Wed Road,
Surat (Gujarat)

...Second Party

For the First Parties : Shri A.B. Gogia
For the Second Part : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/11/99-IR (B-1) dated 06.05.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEME

“Whether the concerned workman Smt. Savitaben Rameshchand Rana has put in continuous service in the Bank as per provisions of Section 25-B?”

And

“Whether the action of the management of State Bank of India through its officers in terminating/discontinuing the services of the workman Smt. Savitaben Rameshchand Rana w.e.f. 06.08.1998 on/with the plea of abolition/cancellation of the waiting list of temporary employees is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 06.05.1999 and received on 09.05.1999 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party submitted the statement of claim Ex. 9 on 03.07.2000 and the first party submitted the written statement Ex. 10 on 08.04.2002. The case was listed for cross-examination of parties.
3. On 08.04.2019, the second party workwoman Savitaben Rameshchand Rana and the first party State Bank of India, Surat and others submitted the settlement Ex. 33 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workwoman Savitaben Rameshchand Rana vide Demand Draft No. 329201 dated 04.04.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workwoman vide Demand Draft No. 329196 dated 04.04.2019 and nothing has been left for further resolution. The said settlement Ex. 33 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 33 is accepted by the Tribunal.
4. Thus the reference is disposed of in the light of the settlement Ex. 33. The settlement Ex. 33 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 714.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के सबद्व नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 02/2018) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 को प्राप्त हुआ था।

[सं. एल-41011/17/2017-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 714.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 02/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 01/05/2019.

[No. L-41011/17/2017-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court, Ahmedabad,
Dated 03rd April, 2019

Reference: (CGITA) No- 02/2018

The Divisional Railway Manager (E),
Western Railway, Mumbai Central,
Mumbai – 400008

...First Party

V/s.

The President,
Railways Retired Employees Association,
D-29, Anandnagar, Near Science College,
Godhra (Gujarat) – 389001

...Second Party

For the First Party : None
For the Second Part : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/17/2017-IR(B-I) dated 05.01.2018 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the action of the management of Divisional Railway Manager, Western Railway, Mumbai in denying compassionate allowance to Shri Sursing Mana who removed from service on 08.07.2009 on the ground of absenteeism is legal and justified? If not, what relief the concerned workman is entitled to?”

1. The reference dates back to 05.01.2018 and received on 22.01.2018 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After receiving the schedule of reference from Government of India, Ministry of Labour and Employment, New Delhi, notices were issued to both the parties on 14.05.2018 to appear on 14.06.2018 but the second party workman and his union did not prefer to submit the statement of claim. Thereafter, despite giving 6 more opportunities on 07.08.2018, 11.09.2018, 30.10.2018, 26.12.2018, 13.02.2019 and 03.04.2019, the second party workman and his union refrained to submit statement of claim.

3. Thus it appears that the second party workman and his union are not willing to prosecute the reference.
4. Therefore, the reference is disposed of in the absence of the statement of claim of the second party workman and his union with the observation as under: “the action of the management of Divisional Railway Manager, Western Railway, Mumbai in denying compassionate allowance to Shri Sursing Mana who removed from service on 08.07.2009 on the ground of absenteeism is legal and justified.”
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 715.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 1280/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 प्राप्त हुआ था।

[सं. एल-12012/4/99-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 715.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1280/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01/05/2019.

[No. L-12012/4/99-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 08th April, 2019

Reference: (CGITA) No. 1280/2004

1. The Chief General Manager,
State Bank of India,
7th Floor, Bhadra, Lal Darwaja,
Ahmedabad (Gujarat) – 380001
2. The Zonal Manager,
State Bank of India,
7th Floor, Paradise Complex, Sayajigunj,
Baroda (Gujarat) – 394220
3. The Manager,
State Bank of India,
Bhattar Road (Surat) Branch, Harkishan Building,
Surat (Gujarat) - 395003
4. The Manager,
State Bank of India,
Prakash Society (Surat) Branch, Surya Kiran Apartment,
Near St. Xavier's School, Ghod-dhad,
Surat (Gujarat) – 395003

...First Parties

V/s.

Shri Rajeshbhai Kondubhai Narge,
 Room No. 41-81378, Navsari Bazar, Bombay Gate Gali,
 Chamadiya Chawl,
 Surat (Gujarat) - 395003

...Second Party

For the First Parties : Shri D.C. Gandhi
 For the Second Party : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/4/99-IR(B-I) dated 06.05.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the concerned workman Shri Rajeshbhai Kondubhai Narge has put in continuous service in the Bank as per provisions of Section 25-B?”

And

“Whether the action of the management of State Bank of India through its officers in terminating/discontinuing the services of the workman Shri Rajeshbhai Kondubhai Narge w.e.f. 07.09.1998 on/with the plea of abolition/cancellation of the waiting list of temporary employees is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 06.05.1999 and received on 09.06.1999 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, both the parties submitted their statement of claim and written statement as the case may be. The case was listed for evidence of the second party.
3. On 08.04.2019, the second party workman Rajeshbhai Kondubhai Narge and the first party State Bank of India, Surat and others submitted the settlement Ex. 30 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workman Rajeshbhai Kondubhai Narge vide Demand Draft No. 774193 dated 05.04.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workman vide Demand Draft No. 774194 dated 05.04.2019 and nothing has been left for further resolution. The said settlement Ex. 30 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 30 is accepted by the Tribunal.
4. Thus the reference is disposed of in the light of the settlement Ex. 30. The settlement Ex. 30 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 716.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 15/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 प्राप्त हुआ था।

[सं. एल-41011/21/2016-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 716.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2017) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 01/05/2019.

[No. L-41011/21/2016-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 11th April, 2019

Reference: (CGITA) No. 15/2017

1. The Sr. Divisional Personnel Officer,
O/o The Divisional Railway Manager,
Western Railway, Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)
2. The Sr. Divisional Engineer (Mechanical),
O/o The Divisional Railway Manager,
Western Railway, Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)
3. The Sr. Divisional Electrical Engineer,
O/o The Divisional Railway Manager,
Western Railway, Near Chamunda Bridge, Asarwa,
Ahmedabad (Gujarat)
4. The General Manager,
Western Railway, Churchgate,
Mumbai – 400020

...First Parties

V/s.

The Joint Divisional Secretary,
Paschim Railway Karmachari Parishad,
Sanand Railway Station, 28/B, Narayanpark,
Behind Chandkheda Railway Station, Sabarmati,
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri M.M. Makhiya
For the Second Part : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/21/2016–IR(B-I) dated 07.03.2017 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDELE

“Whether the action of the management of Western Railway, Mumbai to :- (1) Not to grant promotion to Shri Pravin Kumar Vaghela was justified and (2) Un-authorisedly deduct from salary of Shri Dhulabhai, Technician III under Senior Section Engineer (C&W), Western Railway, Ahmedabad are justified? If not, then what relief the said workmen are entitled to?”

1. The reference dates back to 07.03.2017 and received on 22.03.2017 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After receiving the schedule of reference from Government of India, Ministry of Labour and Employment, New Delhi, notices were issued to both the parties. They were served but neither of the parties submitted the statement of claim or written statement as the case may be.
3. Today on 11.04.2019, Shri R.S. Sisodiya, The Joint Divisional Secretary, Paschim Railway Karmachari Parishad, Sanand Railway Station, 28/B, Narayanpark, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad requested to withdraw the reference.
4. Therefore, the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 717.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय

सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 86/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 प्राप्त हुआ था।

[सं. एल-12012/465/99-आई आर (बी-1)]
बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 717.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 86/2005) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01/05/2019.

[No. L-12012/465/99-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 08th April, 2019

Reference: (CGITA) No. 86/2005

- | | |
|--|------------------|
| 1. The Chief General Manager,
State Bank of India,
Local Head Office, Lal Darwaja,
Ahmedabad (Gujarat) – 380001 | ...First Parties |
| 2. The Chief Manager,
State Bank of India, Salabatpura,
Surat (Gujarat) | V/s. |
| Smt. Vanitaben T. Rathod,
C/o Mukeshbhai B. Tailor,
Imamwada Muglisara,
Opp. Cambay Class,
Surat (Gujarat) | ...Second Party |

For the First Parties : Shri D.C. Gandhi
For the Second Party : Shri L.M. Patil

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/465/99-IR(B-I) dated 28.09.2005 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the action of the management of State Bank of India, Surat, Ahmedabad in terminating the services of Smt. Vanitaben T. Rathod w.e.f. 1994 and not absorbing her with retrospective effect i.e. date of absorption of her junior is justified or not? If not, to what relief he is entitled to and from which date?”

1. The reference dates back to 28.09.2005 and received on 06.10.2005 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, the second party submitted the statement of claim Ex. 6 and the case was listed for filing of written statement by the first party.
3. On 08.04.2019, the second party workwoman Vanitaben T. Rathod and the first party State Bank of India, Surat and others submitted the settlement Ex. 16 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workwoman Vanitaben T. Rathod vide Demand Draft No. 329199 dated 04.04.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri L.M. Patil, advocate of second party workwoman vide Demand Draft No. 329197 dated 04.04.2019 and nothing has been left for further resolution. The said settlement Ex. 16 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 16 is accepted by the Tribunal.

4. Thus the reference is disposed of in the light of the settlement Ex. 16. The settlement Ex. 16 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 718.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 1286/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 प्राप्त हुआ था।

[सं. एल-12012/151/99-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 718.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1286/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01/05/2019.

[No. L-12012/151/99-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court, Ahmedabad,
Dated 08th April, 2019

Reference: (CGITA) No. 1286/2004

1. The Chief General Manager,
State Bank of India, 7th Floor, Bhadra, Lal Darwaja,
Ahmedabad (Gujarat) – 380001
2. The Zonal Manager,
State Bank of India, 7th Floor, Paradise Complex, Sayajigunj,
Baroda (Gujarat)–390005
3. The Branch Manager,
State Bank of India, Gandhav,
Valsad (Gujarat) - 396370
4. The Branch Manager,
State Bank of India,
Billimora (Gujarat)-396370
5. The Branch Manager,
State Bank of India, GIDC,
Navsari (Gujarat) – 396370
6. The Branch Manager,
State Bank of India, Navsari Branch,
Navsari (Gujarat) – 396370

...First Parties

V/s.

Shri Jairambhai Ravjibhai Ahir,
Village and Post Kachholi, Via, Amalsad, Taluka Gajdevi,
Valsad (Gujarat) - 396370

...Second Party

For the First Parties : Shri D.C. Gandhi
For the Second Party : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/151/99-IR(B-I) dated 29.07.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the concerned workman Shri Jairambhai Ravjibhai Ahir has put in continuous service in the Bank as per provisions of Section 25-B?”

And

“Whether the action of the management of State Bank of India through its officers in terminating/discontinuing the services of the workman Shri Jairambhai Ravjibhai Ahir w.e.f. 30.11.1996 on/with the plea of abolition/cancellation of the waiting list of temporary employees is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 29.07.1999 and received on 11.08.1999 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, both the parties submitted their statement of claim and written statement as the case may be. The case was listed for cross-examination of the second party.
3. On 08.04.2019, the second party workman Jairambhai Ravjibhai Ahir and the first party State Bank of India, Surat and others submitted the settlement Ex. 37 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workman Jairambhai Ravjibhai Ahir vide Demand Draft No. 483371 dated 04.04.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workman vide Demand Draft No. 483369 dated 04.04.2019 and nothing has been left for further resolution. The said settlement Ex. 37 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 37 is accepted by the Tribunal.
4. Thus the reference is disposed of in the light of the settlement Ex. 37. The settlement Ex. 37 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 719.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतन्त्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 768/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 प्राप्त हुआ था।

[सं. एल-41012/110/93-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 719.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 768/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 01/05/2019.

[No. L-41012/110/93-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,
Dated 11th April, 2019

Reference: (CGITA) No. 768/2004

1. The General Manager,
Western Railway, Churchgate,
Mumbai – 400020
 2. The Chief Workshop Manager,
Western Railway, Post Dahod,
Panchmahal (Gujarat)
- ...First Parties

V/s.

1. The Joint Divisional Secretary,
Paschim Railway Karmachari Parishad,
A-49, Sant Kabirnagar, Akota, Baroda (Gujarat)
 2. Sukliben Sakarabhai D.,
C/o The President,
General Workmen's Union,
Sinduri Mata Devasthan, Near S.T. Nagar Road,
Godhra (Gujarat) - 389001
- ...Second Party

For the First Parties : Shri M.M. Makhija

For the Second Party : Shri J.K. Ved & Shri Prabhatsinh Parmar

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/110/93-IR(B-I) dated 23.03.1995 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the action of the Chief Works Manager, Loco Workshop, Dahod in terminating the services of Shri Sakarabhai D., Rigger w.e.f. 30.05.1991 is legal, proper and justified? If not, to what relief the workman is entitled to and what directions are necessary in the matter?”

1. The reference dates back to 23.03.1995 received from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. In response to the notice issued to the parties, the second party union submitted the statement of claim Ex. 3 on 11.07.1998 and the first party submitted the written statement Ex. 7 on 27.01.2003.
3. The second party in his statement of claim Ex. 3 has alleged that the workman Sakarabhai D. worked for more than 17 years with the first party The Chief Workshop Manager, Western Railway, Post Dahod, Panchmahal, hereinafter referred to as 'first party'. Despite his blotless carrier and service, he was served a charge-sheet dated 14.12.1990 with a charge of 239 days absence from service. He explained his absent before the enquiry officer in the departmental enquiry that he was suffering with mental disorder and was also an illiterate schedule tribe but his submission was turned around. He has further alleged that the documents mentioned in the charge-sheet were not shown to him and the railway doctor issued him a medical fitness certificate. He was legally entitled to get treatment from a private doctor as per Para 537 of the Indian Railway Medical Manual and on this very ground, the charge-sheet was liable to be struck down but to no result in the enquiry. He explained his absence in the enquiry that he was suffering with mental sickness but same was not considered while awarding the punishment. Therefore, he has prayed that the termination order dated 30.05.1991 be declared as null and void and directing the first party to reinstate him with back wages.
4. The first party in his written statement Ex. 9 partly admitting the averments made in the statement of claim submitted that this workman was working as Rigger in Loco Workshop, Dahod since last several years but his service was not satisfactory. He remained absent from duty from 13.02.1990 to 09.10.1990 without permission. Therefore, he was served with a charge-sheet on 14.12.1990. He did not attend the enquiry. The enquiry was conducted in a regular manner following the due procedure. He was held guilty for the said charge in the enquiry, therefore, the disciplinary authority removed him from service and his appeal was rejected with a detailed reasoned

- order. He has been in a habit of regular absent during his whole service, therefore, his termination cannot be held unjust and illegal.
5. The workman Sakarabhai D. expired on 12.03.2007; therefore, vide application Ex. 10, his widow named Sukliben Sakarabhai D. was substituted as legal heir of the deceased workman. The first party vide list Ex. 21 submitted the service record of the deceased workman.
6. On the basis of the pleadings, the following issues arise:
- Whether the action of the Chief Works Manager, Loco Workshop, Dahod in terminating the services of Shri Sakarabhai D., Rigger w.e.f. 30.05.1991 is legal, proper and justified?
 - To what relief, if any, the widow named Sukliben Sakarabhai D. of the deceased workman is entitled?
7. **Issue No. i and ii:** As both the issues are interrelated, therefore, are decided together. The burden of proof of these issues lies on the second party workman and his widow Sukliben Sakarabhai D. submitted her affidavit Ex. 7 reiterating the averments made in the statement of claim and has not said anything contrary to her examination-in-chief.
8. I heard the learned counsel for the parties and considered the evidence available on record. It is an admitted fact that the deceased workman had been working as Rigger in the workshop Dahod for 17 years and was removed from service after conducting a departmental enquiry for a charge of 239 days long absence from duty. The first party has submitted the service record admitting the fact that the workman worked for 17 years from 27.09.1974 to 30.05.1991. The advocate for the first party admitted that the widow of the deceased workman may move an application before the appropriate authority for pension.
9. I would like to reproduce the provisions of the Rule 65 of the Railway Service Pension Rules, 1993 as under:
- “65. Compassionate allowance -
(1) A railway servant who is dismissed or removed from service shall forfeit his pension and gratuity. Provided that the authority competent to dismiss or remove him from service may, if the case is deserving of special consideration, sanction a compassionate allowance not exceeding two-thirds of pension or gratuity or both which would have been admissible to him if he had retired on compensation pension.”
10. I perused the punishment order which reveals that the deceased workman was removed from immediate effect but the order was silent regarding the pension and gratuity, therefore, in the light of the Rules 65 (1) of Railway Service Pension Rules, 1993 considering the illiteracy, tribal and mental sickness of the deceased workman, the Railway ought to have ordered two-third pension to the workman. But now the workman has died and his widow is in financial distress, therefore, it would be appropriate that the railway authority ought to have granted family pension to the widow of the deceased workman.
11. The widow named Sukliben Sakarabhai D. of the deceased workman named Sakarabhai D. shall apply for the family pension to the appropriate authority and the appropriate authority shall consider it favourably within 30 days from moving of application by the widow of the deceased workman.
12. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 720.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के सबद्व नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 1268/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 प्राप्त हुआ था।

[सं. एल-12012/599/98-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 720.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1268/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01.05.2019.

[No. L-12012/599/98-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 08th April, 2019

Reference: (CGITA) No. 1268/2004

1. The Chief General Manager,
State Bank of India,
7th Floor, Bhadra, Lal Darwaja,
Ahmedabad (Gujarat) – 380001

2. The Zonal Manager,
State Bank of India,
7th Floor, Paradise Complex, Sayajigunj,
Baroda (Gujarat) – 394220

3. The Manager,
State Bank of India,
Salabatpura, (Surat) Branch, Maharaj Chambers,
Mahatma Wadi, P.B. No. 168,
Surat (Gujarat) - 395002

4. The Manager,
State Bank of India,
Udhna-Udognagar, P.B. No. 1,
Surat (Gujarat) – 394210

...First Parties

V/s.

Mr. Harshad Govindbhai Patel,
Banglow No. 1, Sunivas Row House, Ambica Niketan,
Surat (Gujarat) - 395003

...Second Party

For the First Parties : Shri A.B. Gogia
For the Second Party : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/599/98-IR(B-I) dated 30.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the concerned workman Shri Harshad Govindbhai Patel has put in continuous service in the Bank as per provisions of Section 25-B?”

And

“Whether the action of the management of State Bank of India through its officers in terminating/discontinuing the services of the workman Shri Harshad Govindbhai Patel w.e.f. 30.09.1997 on/with the plea of abolition/cancellation of the waiting list of temporary employees is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 30.03.1999 and received on 05.04.1999 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, both the parties submitted their statement of claim and written statement as the case may be. The case was listed for cross-examination of parties.
3. On 08.04.2019, the second party workman Harshad Govindbhai Patel and the first party State Bank of India, Surat and others submitted the settlement Ex. 35 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workman Harshad Govindbhai Patel vide Demand Draft No. 329198 dated 04.04.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workman vide Demand Draft No. 329200 dated 04.04.2019 and nothing has been left for further resolution. The said settlement Ex. 35 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 35 is accepted by the Tribunal.

4. Thus the reference is disposed of in the light of the settlement Ex. 35. The settlement Ex. 35 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 721.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के सबद्व नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 1299/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/05/2019 प्राप्त हुआ था।

[सं. एल—12012/404/99—आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 721.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1299/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01.05.2019.

[No. L-12012/404/99-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 08th April, 2019

Reference: (CGITA) No. 1299/2004

1. The Chief General Manager,
State Bank of India, 7th Floor, Bhadra, Lal Darwaja,
Ahmedabad (Gujarat) – 380001
3. The Deputy General Manager,
State Bank of India, Zonal Office,
7th Floor, Paradise Complex, Sayajigunj,
Baroda (Gujarat) – 390005
4. The Manager,
State Bank of India, Nanpura Branch, Hathugar Mohalla, Nanpura
Surat (Gujarat)
5. The Manager,
State Bank of India, Pardi Sery Branch, Badli Fali Ya,
Surat (Gujarat)

...First Parties

V/s.

Shri Jagdish Jamalbhai Parmar,
Krishna Raw House No. 26,
Palanpur Jagat Naka Palanpur Road,
Surat (Gujarat)

...Second Party

For the First Parties : Shri D.C. Gandhi
For the Second Party : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/404/99-IR(B-I) dated 19.07.2000 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of State Bank of India in terminating the services of Shri Jagdishbhai Jamalbhai Parmar w.e.f. 16.07.1999 is justified? If not, to what relief the concerned workman is entitled?”

6. The reference dates back to 19.07.2000 and received on 05.08.2000 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
7. After issuing notice to the parties, both the parties submitted their statement of claim and written statement as the case may be. The case was listed for evidence of the second party.
3. On 08.04.2019, the second party workman Jagdishbhai Jamalbhai Parmar and the first party State Bank of India, Surat and others submitted the settlement Ex. 31 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workman Jagdishbhai Jamalbhai Parmar vide Demand Draft No. 427233 dated 04.04.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workman vide Demand Draft No. 427235 dated 04.04.2019 and nothing has been left for further resolution. The said settlement Ex. 31 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 31 is accepted by the Tribunal.
4. Thus the reference is disposed of in the light of the settlement Ex. 31. The settlement Ex. 31 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 722.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के सबद्व नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 1260/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.05.2019 प्राप्त हुआ था।

[सं. एल-12012/383/98-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 722.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1260/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01.05.2019.

[No. L-12012/383/98-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 08th April, 2019

Reference: (CGITA) No. 1260/2004

1. The Chief General Manager,
State Bank of India,
7th Floor, Bhadra, Lal Darwaja,
Ahmedabad (Gujarat) – 380001
2. The Regional Manager,

- State Bank of India,
Region – III, Zonal Office, 7th Floor, Paradise Complex, Sayajigunj,
Baroda (Gujarat) – 394220
3. The Manager,
State Bank of India,
Service Branch, 2nd Floor, Akshar Complex,
Behind Rang Upavan, Makkaipool,
Surat (Gujarat) – 395003

...First Parties

V/s.

Mr. Santhosh Kumar Nathuram More,
Navsari Bazar, Behind Bombay Gate, Chamdiya Ki Chawl, Room No. 45,
Surat (Gujarat) - 395003

...Second Party

For the First Parties : Shri A.B. Gogia
For the Second Party : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/383/98-IR(B-I) dated 11.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the concerned workman Shri Santhosh Kumar Nathuram More has put in continuous service in the Bank as per provisions of Section 25-B?”

And

“Whether the action of the management of State Bank of India through its officers in terminating/discontinuing the services of the workman Shri Santhosh Kumar Nathuram More w.e.f. 28.02.1997 on/with the plea of abolition/cancellation of the waiting list of temporary employees is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?”

1. The reference dates back to 11.03.1999 and received on 26.03.1999 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, both the parties submitted their statement of claim and written statement as the case may be. The case was listed for evidence of the second party.
3. On 08.04.2019, the second party workman Santhosh Kumar Nathuram More and the first party State Bank of India, Surat and others submitted the settlement Ex. 33 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workman Santhosh Kumar Nathuram More vide Demand Draft No. 774197 dated 05.04.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workman vide Demand Draft No. 774196 dated 05.04.2019 and nothing has been left for further resolution. The said settlement Ex. 33 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 33 is accepted by the Tribunal.
4. Thus the reference is disposed of in the light of the settlement Ex. 33. The settlement Ex. 33 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 723.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे प्रबंधतंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 83/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.05.2019 प्राप्त हुआ था।

[सं. एल-41011/59/2015-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 723.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 83/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 01.05.2019.

[No. L-41011/59/2015-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,
Dated 11th April, 2019

Reference: (CGITA) No. 83/2015

1. The Divisional Railway Manager,
Western Railway, Asarwa, Near Chamunda Bridge,
Ahmedabad (Gujarat)
 2. The Chief Medical Officer,
Western Railway, Sabarmati Railway Hospital, Sabarmati,
Ahmedabad (Gujarat)
- ...First Parties

V/s.

The Joint Divisional Secretary,
Paschim Railway Karmachari Parishad,
Sanand Railway Station, PO Nidh Road, Sanand,
Ahmedabad (Gujarat)

...Second Party

For the First Parties : Shri H.R. Raval
For the Second Party : Shri R.S. Sisodiya

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/59/2015-IR(B-I) dated 26.11.2015 referred the dispute for adjudication to the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the demand of the Joint Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad against the Divisional Railway Manager, Western Railway, Ahmedabad to appoint the sons of Late Shri Bula Sakra, Shri Babubhai Bhula Sakra under compassionate ground is justified? If yes, then what relief Shri Babubhai Bhula Sakra is entitled to?”

1. The reference dates back to 26.11.2015 and received on 16.12.2015 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After receiving the schedule of reference from Government of India, Ministry of Labour and Employment, New Delhi, notices were issued to both the parties. They were served but neither of the parties submitted the statement of claim or written statement as the case may be.
3. Today on 11.04.2019, Shri R.S. Sisodiya, The Joint Divisional Secretary, Paschim Railway Karmachari Parishad, Sanand Railway Station, 28/B, Narayanpark, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad requested to withdraw the reference.
4. Therefore, the reference is disposed of as withdrawn.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 मई, 2019

का.आ. 724.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के सबद्व नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अहमदाबाद के पंचाट (संदर्भ संख्या 1284/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.05.2019 प्राप्त हुआ था।

[सं. एल-12012/137/99-आई आर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 1st May, 2019

S.O. 724.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1284/2004) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01.05.2019.

[No. L-12012/137/99-IR (B-1)]

B. S. BISHT, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT-cum-Labour Court,

Ahmedabad,

Dated 08th April, 2019

Reference: (CGITA) No. 1284/2004

1. The Chief General Manager,
State Bank of India,
7th Floor, Bhadra, Lal Darwaja,
Ahmedabad (Gujarat) – 380001
2. The Zonal Manager,
State Bank of India,
7th Floor, Paradise Complex, Sayajigunj,
Baroda (Gujarat) – 394220
3. The Branch Manager,
State Bank of India,
Navsari (Gujarat)
4. The Branch Manager,
State Bank of India,
Billimora (Gujarat)

...First Parties

V/s.

Shri Navnitbhai Raghubhai Patel,
Village and Post Vasma, Kacchiawadi,
Taluka Jalalpore,
Navsari (Gujarat)

...Second Party

For the First Parties : Shri D.C. Gandhi
For the Second Part : Shri P.F. Baxi

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/137/99-IR(B-I) dated 28.07.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDEULE

“Whether the concerned workman Shri Navnitbhai Raghubhai Patel has put in continuous service in the Bank as per provisions of Section 25-B?”

And

“Whether the action of the management of State Bank of India through its officers in terminating/discontinuing the services of the workman Shri Navnitbhai Raghubhai Patel w.e.f. 05.07.1997 on/with the plea of

abolition/cancellation of the waiting list of temporary employees is legal, proper and justified? If not, to what relief the concerned workman is entitled to and from which date and what other directions are necessary in the matter?"

1. The reference dates back to 28.07.1999 and received on 17.08.1999 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
2. After issuing notice to the parties, both the parties submitted their statement of claim and written statement as the case may be. The case was listed for cross-examination of the second party.
3. On 08.04.2019, the second party workman Navnitbhai Raghubhai Patel and the first party State Bank of India, Surat and others submitted the settlement Ex. 33 stating that the matter has been resolved by way of onetime payment of Rs.200000/- (Rupees Two Lac) in the favour of second party workman Navnitbhai Raghubhai Patel vide Demand Draft No. 483372 dated 04.04.2019 along with Rs.15000/- (Rupees Fifteen Thousand) in the favour of Shri P.F. Baxi, advocate of second party workman vide Demand Draft No. 483370 dated 04.04.2019 and nothing has been left for further resolution. The said settlement Ex. 33 is read over and explained to the parties. They admitted the terms and conditions of the settlement. Therefore, the settlement Ex. 33 is accepted by the Tribunal.
4. Thus the reference is disposed of in the light of the settlement Ex. 33. The settlement Ex. 33 shall remain the part of the award.
5. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 725.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार में सर्व भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 28/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 725.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 28/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM – LABOUR COURT CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 28/2019

Friday, the 29th March, 2019

BETWEEN

Sri S. Bharthi Mohan
S/o N. Sivananthm,

No. 7/59B, Mariamman Kovil 2nd Street,
C. Pallavaram
Chennai-600043

: 1st Party/Petitioner

AND

1. The General Manager : 2nd Party/1st to 4 Respondent
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11th Main Road, Annanagar West
Chennai-600040
2. The Manager :
32A, T.S. Krishna Nagar, Mugappair,
Anna Nagar West
Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.) :
New No. 20, 18th Avenue
Ashok Nagar
Chennai-600083
4. Mr. S. Ramachandran :
New No. 6 (Old No. 11), Damodaran St.
Kellys
Chennai-600010

Appearance:

For the 1st Party/Petitioner : Party in Person
For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. S. Bharathi Mohan, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.

3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.

5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 28 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 726.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 29/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O.726.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management

M/s Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 29/2019

Friday, the 29th March, 2019

BETWEEN

Sri G. Gnanavel,
S/o Ganesan,
No. 10, Nalvaravu Street,
MMDA Colony, Arumbakkam,
Chennai-600106

: 1st Party/Petitioner

AND

- | | | |
|---|---|---|
| 1. The General Manager
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11 th Main Road, Annanagar West
Chennai-600040 | : | 2 nd Party/1 st 1 to 4 Respondent |
| 2. The Manager
32A, T.S. Krishna Nagar, Mugappair,
Anna Nagar West
Chennai-600050 | : | |
| 3. Sqn.LDr. V. Venkatadri (Retd.)
New No. 20, 18 th Avenue
Ashok Nagar
Chennai-600083 | : | |
| 4. Mr. S. Ramachandran
New No. 6 (Old No. 11), Damodaran Street
Kellys Chennai-600010 | : | |

Appearance:

For the 1st Party/Petitioner : Party in Person

For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. G. Gnavavel, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.

3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.

5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 29 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 727.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार में सर्व भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 30/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जे.ड-16025/4/2019-आई आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 727.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 30/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 30/2019

Friday, the 29th March, 2019

BETWEEN

Sri M. Jambulingam
S/o Muthaiah
No. 54-B, 2nd Street
B.V. Colony, Vyasarpadi
Chennai-600039 : 1st Party/Petitioner

AND

1. The General Manager
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden

- 11th Main Road, Annanagar West
Chennai-600040
2. The Manager
32A, T.S. Krishna Nagar, Mugappair,
Anna Nagar West
Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.)
New No. 20, 18th Avenue
Ashok Nagar
Chennai-600083
4. Mr. S. Ramachandran
New No. 6 (Old No. 11), Damodaran St.
Kellys Chennai-600010

Appearance:

For the 1st Party/Petitioner : Party in Person
For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. Jambulingam, S/o Muthaiah. The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.
3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason

assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.

5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 30 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 728.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 31/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 728.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 31/2019) of the Central Government Industrial Tribunal/LabourCourt, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM – LABOUR COURT CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 31/2019

Friday, the 29th March, 2019

BETWEEN

Smt. G. Mariyammal
D/o G. Chellapa
No. 4/151, Anna Street, Polachalur
Chennai-600074 : 1st Party/Petitioner

AND

1. The General Manager : 2nd Party/Respondent 1 to 4
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11th Main Road, Annanagar West
Chennai-600040
2. The Manager : 2nd Party/Respondent 1 to 4
32A, T.S. Krishna Nagar, Mugappair,
Anna Nagar West
Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.) : 2nd Party/Respondent 1 to 4
New No. 20, 18th Avenue
Ashok Nagar
Chennai-600083
4. Mr. S. Ramachandran : 2nd Party/Respondent 1 to 4
New No. 6 (Old No. 11), Damodaran St.
Kellys Chennai-600010

Appearance:

For the 1 st Party/Petitioner	:	Party in Person
For the 2 nd Party/Respondents 1 to 4	:	None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Smt. G. Mariyammal, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.
3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx xx xx xx xx xx xx xx xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.
5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 31 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 729.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 32/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 729.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 32/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 32/2019

Friday, the 29th March, 2019

BETWEEN

Sri M. Gunasekaran
S/o C. Mani
Old No. 36/1, New No. 42,
Kanni Mulla Ganapathi Nagar,
Thirumullaivayal, Ambattur,
Chennai-600043 : ...1st Party/Petitioner

AND

1. The General Manager : ...2nd Party/Respondent 1 to 4
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11th Main Road, Annanagar West
Chennai-600040
2. The Manager
32A, T.S. Krishna Nagar, Mugappair,
Anna Nagar West
Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.)
New No. 20, 18th Avenue
Ashok Nagar
Chennai-600083
4. Mr. S. Ramachandran
New No. 6 (Old No. 11), Damodaran Street
Kellys
Chennai-600010

Appearance:

For the 1st Party/Petitioner : Party in Person
 For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. M. Gunasekaran, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. Due the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.

3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.
5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 32 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 730.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 33/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जे.ड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 730.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

**ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 33 of 2019

Friday, the 29th March, 2019

BETWEEN

Sri M. Umamageswara Rao,
S/o Dharamaraj,
No. 67/9, Lakshmi Plot,
2nd Cross Street
Sathyam Nagar, Padi
Chennai-600050
AND

1. The General Manager
A Govt. of India Under Taking
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11th Main Road, Annanagar West
Chennai-600040
2. The Manager
Company Owner Company Operated Outlet,
32A, T.S. Krishna Nagar, Mugappair,
Anna Nagar West
Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.)
New No. 20, 18th Avenue
Ashok Nagar
Chennai-600083
4. Mr. S. Ramachandran
New No. 6 (Old No. 11), Damodaran Street,
Kellys Chennai-660010

Appearance:

For the 1st Party/Petitioner : Party in Person
For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A (2) of the Industrial Dispute Act Filed by one Mr. M. Umamageswara Rao, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under

section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c) (2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.
3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.
5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 33 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 731.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 34/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 731.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT,
CHENNAI****Present :** DIPTI MOHAPATRA, Presiding Officer**I.D. No. 34 of 2019**Friday, the 29th March, 2019**BETWEEN**

Sri K. Ramesh,
S/o Karuppaiah
No. 12/54, Kannasadan Street,
Mogapair East, Thiruvallur District,
Chennai-600037

AND

1. The General Manager
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11th Main Road, Anna Nagar East
Chennai-600040
2. The Manager
32A, T.S. Krishna Nagar, Mugapair,
Anna Nagar West
Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.)
New No. 20, 18th Avenue
Ashok Nagar
Chennai-600083
4. Mr. S. Ramachandran
New No. 6 (Old No. 11), Damadaran Street
Kellys
Chennai-660010

Appearance:

For the 1st Party/Petitioner : Party in Person
For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. K. Ramesh, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on

29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.

3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.
5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 34 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 732.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 35/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 732.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 35/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

L.D. No. 35/2019

Friday, the 29th March, 2019

BETWEEN

Sri G. Irudhayaraj,
S/o Gnanasundaram,
No. 12/203, Small Street, Pulicat Post,
Ponneri Taluk, Thiruvallur District
Pin-601205 : 1st Party/Petitioner

AND

1. The General Manager : 2nd Party/1st Respondent
A Govt. of India Undertaking,
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11th Main Road, Annanagar West
Chennai-600040
2. The Manager : 2nd Party/2nd Respondent
32A, T.S. Krishna Nagar, Mugappair,
Anna Nagar West
Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.) : 2nd Party/3rd Respondent
New No. 20, 18th Avenue
Ashok Nagar Chennai-600083
4. Mr. S. Ramachandran : 2nd Party/4th Respondent
New No. 6 (Old No. 11), Damodaran St.
Kellys Chennai-600010

Appearance:

- For the 1st Party/Petitioner : Party in Person
For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. G. Iruthayaraj, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.
3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the

ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub-clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx xx xx xx xx xx xx xx xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.
5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID No. 35 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 733.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 36/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 733.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 36/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT
CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

L.D. No. 36/2019

Friday, the 29th March, 2019

BETWEEN

Sri P. Paul Raj
 S/o P. John,
 No. 250, Bharathi Nagar, 2nd Street,
 Villivakkam, Chennai-600049

: 1st Party/Petitioner

AND

1. The General Manager, : 2nd Party/1st Respondent
 A Govt. of India Under taking,
 Bharat Petroleum Corporation Limited,
 No. 1 Ranganathan Garden,
 11th Main Road, Anna Nagar East,
 Chennai-600040
2. The Manager : 2nd Party/2nd Respondent
 Company Owner Company Operated Outlet
 32A, T.S. Krishna Nagar, Mugappair,
 Anna Nagar West, Chennai-600050
3. Sqn. LDr. V. Venkatadri (Retd.) : 2nd Party/3rd Respondent
 New No. 20, 18th Avenue, Ashok Nagar
 Chennai-600083
4. Mr. S. Ramachandran : 2nd Party/4th Respondent
 New No. 6 (Old No. 11), Damodaran Street,
 Kellys, Chennai-600010

Appearance:

For the 1st Party/Petitioner : Party in PersonFor the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. P. Paul Raj, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.
3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.
5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID No. 36 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 734.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 37/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 734.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 37/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 37/2019

Friday, the 29th March, 2019

BETWEEN

Sri C. Udhaya Sankar
S/o Chinnasamy,
No. 65, Thennaimara Street,
Kathalampatti,
Vellore-632312

: 1st Party/Petitioner

AND

1. The General Manager : 2nd Party/1st Respondent
 A Govt. of India Under Taking
 Bharat Petroleum Corporation Ltd.
 No. 1, Raganathan Garden
 11th Main Road, Annanagar Eest
 Chennai-600040
2. The Manager : 2nd Party/2nd Respondent
 Company Owner Company Operated Outlet
 32A, T.S. Krishna Nagar, Mugappair,
 Anna Nagar, West
 Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.) : 2nd Party/3rd Respondent
 New No. 20, 18th Avenue
 Ashok Nagar,
 Chennai-600083
4. Sri. S. Ramachandran : 2nd Party/4th Respondent
 New No. 6 (Old No. 11), Damodaran St.
 Kellys
 Chennai-600010

Appearance:

For the 1st Party/Petitioner : Party in Person
 For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. C. Udhaya Sankar, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.
3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub-clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx Section 2A of sub-clause (3) reads as follows :-

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.

5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID No. 37 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 735.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 38/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 735.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 38/2019

Friday, the 29th March, 2019

BETWEEN

Mr. S. Pitchai,
S/o Sembulingam,
No. 7/463, Kamarajar Street,
M.K. B. Nagar, Ambattur
Chennai-600053

: 1st Party/Petitioner

AND

1. The General Manager : 2nd Party/1st Respondent

Bharat Petroleum Corporation Ltd. No. 1, Raganathan Garden, 11 th Main Road, Annanagar West Chennai-600040	:	
2. The Manager 32A, T.S. Krishna Nagar, Mugappair, Anna Nagar West Chennai-600050	:	2 nd Party/2 nd Respondent
3. Sqn.LDr. V. Venkatadri (Retd.) New No. 20, 18 th Avenue Ashok Nagar, Chennai-600083	:	2 nd Party/3 rd Respondent
4. Mr. S. Ramachandran New No. 6 (Old No. 11), Damodaran St. Kellys Chennai-600010	:	2 rd Party/4 th Respondent

Appearance:

For the 1st Party/Petitioner : Party in Person
For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. S. Pitchai, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

- During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.
- In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate Forum under the Act to get immediate relief.

Section 2A sub-clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx xx xx xx xx xx xx xx xx Section 2A of sub clause (3) reads as follows :-

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

- In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that

except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.

5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2 (2A) of the Industrial Dispute Act.

The case in ID 38 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 736.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 39/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 736.— in pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 39/2019

Friday, the 29th March, 2019

BETWEEN

Sri S. Nagaraj,
S/o M. Subramaniyan,
No. 18/25, Gandhi Street,
Elango Nagar, Menambedu
Ambattur
Chennai-600053 : 1st Party/Petitioner

AND

1. The General Manager : 2nd Party/1st Respondent
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11th Main Road, Annanagar West
Chennai-600040

2. The Manager : 2nd Party/2nd Respondent
 32A, T.S. Krishna Nagar, Mugappair,
 Anna Nagar West,
 Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.) : 2nd Party/3rd Respondent
 New No. 20, 18th Avenue
 Ashok Nagar,
 Chennai-600083
4. Mr. S. Ramachandran : 3rd Party/4th Respondent
 New No. 6 (Old No. 11), Damodaran St.
 Kellys,
 Chennai-600010

Appearance:

For the 1st Party/Petitioner : Party in Person
 For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. S. Nagaraj, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.

3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx xx xx xx xx xx xx xx xx Section 2A of sub clause (3) reads as follows :-

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand

the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.

5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 39 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 737.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार में सर्व भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 40/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 737.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 40/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT CHENNAI

Present : DIPTI MOHAPATRA, LL.M. Presiding Officer

I.D. No. 40/2019

Friday, the 29th March, 2019

BETWEEN

Mr. B. Rajan,
S/o Bakthavatchalam
No. 31/A, Bajanai Koil Street
West Mogappair, Near 7th Block
No. 622 Chennai-600037 : 1st Party/Petitioner

AND

1. The General Manager : 2nd Party/1st Respondent
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11th Main Road, Annanagar West
Chennai-600040
2. The Manager : 2nd Party/2nd Respondent
32A, T.S. Krishna Nagar, Mugappair,
Anna Nagar West
Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.) : 2nd Party/3rd Respondent

New No. 20, 18th Avenue
 Ashok Nagar,
 Chennai-600083
 4. Mr. S. Ramachandran : 2rd Party/4th Respondent
 New No. 6 (Old No. 11), Damodaran St.
 Kellys,
 Chennai-600010

Appearance:

For the 1st Party/Petitioner : Party in Person
 For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. B. Rajan, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.

3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx xx xx xx xx xx xx xx xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.

5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 40 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 738.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 41/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 738.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 41/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 41/2019

Friday, the 29th March, 2019

BETWEEN

Mr. D. Poomaran,
S/o Desinghu,
No. W-16, Thai Nagar,
Pothur Village, Pammathukulam Post
Redhills,
Chennai-600052

: 1st Party/Petitioner

AND

1. The General Manager : 2nd Party/ Respondent 1 to 4
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11th Main Road, Annanagar West
Chennai-600040
2. The Manager : 2nd Party/2nd Respondent
32A, T.S. Krishna Nagar, Mugappair,
Anna Nagar West
Chennai-600050

3. Sqn.LDr. V. Venkatadri (Retd.) : 2nd Party/3rd Respondent
 New No. 20, 18th Avenue
 Ashok Nagar
 Chennai-600083
4. Mr. S. Ramachandran : 2rd Party/4th Respondent
 New No. 6 (Old No. 11), Damodaran St.
 Kellys
 Chennai-600010

Appearance:

For the 1st Party/Petitioner : Party in Person
 For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. D. Poomaran, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.

3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx xx xx xx xx xx xx xx xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.

5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 41 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 739.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार में सर्व भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 42/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 739.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 42/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 42/2019

Friday, the 29th March, 2019

BETWEEN

Mr. R. Thirumurugan,
S/o Ramamoorthi,
No. 7/3, Vairamkulam 2nd Street,
Chittu Oragadam, Ambattur,
Chennai-600053 : 1st Party/Petitioner

AND

1. The General Manager : 2nd Party/ Respondent 1 to 4
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11th Main Road, Annanagar West,
Chennai-600040
2. The Manager :
32A, T.S. Krishna Nagar, Mugappair,
Anna Nagar West,
Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.) :
New No. 20, 18th Avenue
Ashok Nagar,
Chennai-600083
4. Mr. S. Ramachandran :

New No. 6 (Old No. 11), Damodaran St.
 Kellys
 Chennai-600010

Appearance:

For the 1st Party/Petitioner : Party in Person
 For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. R. Thirumurugan, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.

3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx xx xx xx xx xx xx xx xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.

5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 42 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 3 मई, 2019

का. आ. 740.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भारत पेट्रोलियम कारपोरेशन लिमिटेड एवं अन्य के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 43/2019) को प्रकाशित करती है जो केन्द्रीय सरकार को 02.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 3rd May, 2019

S.O. 740.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 43/2019) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bharat Petroleum Corporation of India and others and their workman, which was received by the Central Government on 02.05.2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT CHENNAI

Present : DIPTI MOHAPATRA, Presiding Officer

I.D. No. 43/2019

Friday, the 29th March, 2019

BETWEEN

Mr. Hilal Ahmed,
S/o Zaheer Ahamed
No. 4, Chada Sahib Street
Royapettah, Mishapet
Chennai-600014

: 1st Party/Petitioner

AND

1. The General Manager : 2nd Party/ Respondent 1 to 4
Bharat Petroleum Corporation Ltd.
No. 1, Raganathan Garden
11th Main Road, Annanagar West
Chennai-600040
2. The Manager : 2nd Party/ Respondent 1 to 4
32A, T.S. Krishna Nagar, Mugappair,
Anna Nagar West
Chennai-600050
3. Sqn.LDr. V. Venkatadri (Retd.) : 2nd Party/ Respondent 1 to 4
New No. 20, 18th Avenue
Ashok Nagar
Chennai-600083
4. Mr. S. Ramachandran : 2nd Party/ Respondent 1 to 4
New No. 6 (Old No. 11), Damodaran St.
Kellys
Chennai-600010

Appearance:

For the 1st Party/Petitioner : Party in Person
 For the 2nd Party/Respondents 1 to 4 : None

ORDER

This is an Application under 2A(2) of the Industrial Dispute Act Filed by one Mr. Hilal Ahmed, The Applicant case in brief is that he was employed under the Respondents through the 4th Respondent-Contractor as a pump operator with a monthly salary of Rs. 14,700/- and alongwith Bonus and other Allowances, on the strength of an agreement dated 01.08.2004. While the matter stood thus, he was terminated from service without any prior notice under section 25 of the ID Act. The Applicant urges, he moved the appropriate Authority by his petition under section 33(c)(2) of the ID Act claiming compensation and benefits owing to his termination. But to his ill luck the petition was dismissed. With this backdrop the petitioner claims to set aside the order of the termination and his reinstatement with all financial benefits for his service period from 1995 to 2007.

2. During the course hearing the Learned Counsel moves this petition under section 5 of the Limitation Act to condone the delay of 4180 days in filing of the Application under 2A of the ID Act. He assigns the reason of the delay that the petitioner moved the appropriate Authority for compensation owing to his termination which was dismissed on 29.01.2010 occasioning him to approach the Deputy Labour Commissioner (C), Chennai on dated 08.01.2013 which is still pending disposal. He further assigns the reason that his relevant file was misplaced in the office of the Union, which was received only on 17.12.2018. Thereafter the Applicant files this Application under 2A of the ID Act. Hence, prays to condone the delay and admit the case.

3. In view of the facts discussion held supra and on through perusal of the Office Note, the Claim Statement and other documents including the delay condonation petition, it undoubtedly appears that there is inordinate delay of 4190 days in filing of the Applications. In order to bring the instant Application within the admit of the amended provision under 2A Act, it is to be seen if the Applicant approaches this Forum-The Industrial Tribunal after exhausting all pre requisites of the conditions contemplated under the provision of 2A (2) of the Act. Admittedly the amended insertion under 2A of the ID Act is a beneficiary legislation for workmen, which provides a right in favour of the workmen to approach directly to the appropriate the Forum under the Act to get immediate relief.

Section 2A sub clause (2) of the ID Act reads as follows:

“Notwithstanding anything contained in Section 10 any such workmen as is specified in Sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudication upon the dispute , xx Section 2A of sub clause (3) reads as follows

“The application referred to in Sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in Sub-section (1)”

4. In combined reading of both the section it needs to see if the Applicant has filed the Application within a period of 3 years from the date of the alleged termination. And also to see if the Applicant approached the Labour Machinery within the period of 3 years and after expiry of 45 days of such approach, has filed the instant Applications under 2A (2) before this Tribunal. In a meticulous perusal and scrutiny on the documents available on record, it is found that except a petition to condone delay, the Applicant failed to produce a single scrap of documents relating to his appointment, termination, or any copies of the petition showing to have moved before the Labour Machinery. On further perusal of the Office Note it is found that the Applicant was provided with sufficient opportunity to produce the relevant documents. The Applicant when fails to produce any document regarding his approach to Labour Machinery-Conciliation Officer, did not turn-up to convince the delay of 4190 (as per the Office Note). In filing of the Applications. On the other hand the reason assigned by the Applicant in his petition to condone delay does not sound reasonable. The petition to condone the delay of 4190 days is rejected, being devoid of any merit.

5. In view of the discussion held in preceding paragraphs the Application filed by the Applicant deserves not maintainable under the provisions under section 2(2A) of the Industrial Dispute Act.

The case in ID 43 of 2019 stands dismissed.

DIPTI MOHAPATRA, Presiding Officer

नई दिल्ली, 6 मई, 2019

का. आ. 741.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 10/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.05.2019 को प्राप्त हुआ था।

[सं. एल-12011/3/2014-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 6th May, 2019

S.O. 741.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 10/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen received by the Central Government on 06/05/2019.

[No. L-12011/3/2014-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT BANGALORE

Dated : 23rd April 2019

Present : Justice Smt. Rathnakala, Presiding Officer

C.R. No. 10/2014

I Party

1. The President,
Indian Bank Employees Union,
C/o India Bank, 10,K.G.Road,
BANGALORE 560 009.
2. Sh. M. Sundara,
S/o Late Siddaiah,
Muddahalli Navilur Post,
Nanjangud Taluk, Mysore Dist.

II Party

The General Manager (p),
Indian Bank, Zonal Office,
4th Floor, (East Wing)
Raheja Towers, No. 26-27,
M.G. Road,
BANGALORE 560 001.

Advocate I Party : Advocate for II Party:
Mr. Muralidhara : Mr. P. Udayashankar Rai

AWARD

The Central Government vide Order No.L-12011/3/2014 IR(B-II) dated 04.06.2014 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

"Whether the action of the management of Indian Bank over unjust denial of pension to Shri M. Sundara, Clerk-cum-shroff of Mandya Branch, retired from the services of the Bank on voluntary cessation is justified? If not, to what relief the aggrieved workman Shri M. Sundara is entitled to?"

1. The case of the 1st Party is, that Sh. M Sundara, Ex Clerk-cum-Shroff, Mandya Branch was declared by the 2nd Party as having voluntarily left the job w.e.f 03.02.2006 but, they have denied the pensionary benefits to him, he had rendered honest and devoted service to the Bank; during 2005-06 due to domestic problems he could not attend the duties. The 2nd Party/Management invoking Clause 33 of the Bipartite Settlement dated 02.06.2005, recorded voluntary cessation of employment by him w.e.f 03.02.2006. The 2nd Party introduced Indian Bank (Employees) Pension Regulations, 1995 to provide pensionary benefits to those who exercised their option in writing to become the member of the Employees Pension Fund; Sh. Sundara exercised his option in writing and the same was registered by the Bank in their records, thus he is a member of the Employees Pension Fund Trust; his employment was not termination on account of any

misconduct so as to entail forfeiture of his entire past service. However, 2nd Party did not determine his pensionary benefits despite several representations. The action of the Management in denying pensionary benefit has offended Article 14 and 21 of the Constitution of India. Hence, prayer for a direction to the 2nd Party, to determine his entitlement for pension under the provisions of the Pension Regulations and to pay the arrears of pension from 03.06.2006 along with interest.

2. As per the counter statement placed by the 2nd Party, an employee who has voluntarily abandoned the service of the Bank in terms of Clause 33 of the Bipartite Settlement is not entitled for pension. There are no rules or regulations enabling such employees who have voluntarily abandoned the services of the Bank or deemed to have voluntarily abandoned the services of the Bank. The 1st Party remained unauthorisedly absent from duty continuously for more than 90 days. After issuing notice for being unauthorisedly absent and issuing a final notice dated 01.02.2006, 2nd Party deemed to consider him as voluntarily abandoned the services of the Bank. As per Regulation No. 22 of the Indian Bank Pension Regulation 1995, the Bank is entitled to forfeiture all his entire past service and he will not be qualified for pensionary benefit.

3. Both parties have adduced their evidence. Ex W-1 to Ex W-6 are marked for the 1st Party and Ex M-1 is marked for the 2nd Party.

4. Parties are not at dispute regarding unauthorized absence of Sh. M. Sundara during 2005-06. The Bank has treated his case as voluntary cessation of service in terms of Clause 33 of VII Bipartite Settlement dated 02.06.2005; now they have invoked the Regulation No 22 of the Indian Bank Pension Regulation 1995, which reads as under:-

“Forfeiture of Service”, among other things it is stated as follows :-

- (i) Resignation or dismissal or removal or termination of an employee from the service of the Bank shall entail forfeiture of this entire past service and consequently shall not qualify for pensionary benefits.
- (ii) An interruption in the service of a Bank employee entails forfeiture of his past service, except in the following cases, namely
 - (a)
 - (b)

5. It is obvious that, voluntary cessation of employment is not covered within the frame of Rule 22. But, argument of Learned Counsel for the 2nd Party is, the word resignation appearing in sub rule 1 has to be construed with a broader meaning which also includes any other form of resigning from duty including by way of unauthorized absence. Any narrow meaning to the word resignation would subvert the whole purpose of the pension scheme and hence voluntary cessation shall also to be interpreted in the same equivalence as that of resignation. Any other interpretation on para 22 that voluntary cessation of service is not covered, will defeat the very object/spirit of the Regulation 22 of the Pension Regulation 1995. If a contrary interpretation is allowed all the employees who want to resign, will resort to the unlawful method of abstaining from work or unauthorized absence to claim the benefit of pension. Deserting the service of the Bank through unauthorized absence is actually worse than resignation. In the light of Regulation 22 of the Pension Regulation 1995 read with Clause 33 of the Bipartite Settlement dated 02.06.2005, 1st Party is not entitled for pensionary benefits.

6. It is the further contention of the 2nd Party, payment of pension while retiring through compulsory retirement is entirely different and certainly not applicable to the present circumstance. In the case of compulsory retirement the Disciplinary Authority depending upon the gravity of misconduct of the concerned employee will impose appropriate punishment and the same analogy cannot be drawn to the case of the employee voluntarily abandoning the service of the Bank by unauthorized absence.

7. Admittedly Sh. M Sundara had rendered service from 10.06.1978 to 2005 without any break; his unauthorized absence is not considered by the Management as a misconduct it is a unilateral action of the management in treating him as ‘voluntarily left the service of the Bank in terms of Clause 33 of the Bipartite Settlement dated 02.06.2005’. The Apex Court in the matter of Syndicate Bank, Bangalore vs Satya Srinath (2007-II-LLJ 258) wherein the fact was, the Bank Official who’s leave application seeking for extension of leave on medical ground was denied, and the Bank had ordered her premature retirement and denied pension of 20 years of service, intervened and held that, she did not fall either in the category of herself seeking voluntary retirement or in the category of one deemed to have voluntarily retired, as per clause 17(a) of the V Bipartite Settlement. She falls in the 3rd Category which is not contemplated in the Regulation. By holding so, the Apex court further held that, she could not be denied the benefit of 20 years of service when she comes within the pension scheme who were in service prior to 1986 and retired before 29.09.1995. Thus, her entitlement for pension was declared by the Judgment of the Division Bench of our Hon’ble High Court.

8. It is worthwhile to reproduce the observation of our Hon’ble High Court in the same matter [Smt. Sathya Srinath vs Syndicate Bank..... (ILR 2003 KAR 2605)] at para 21, “Further, the cessation of service of the appellant brought about by the management by its order dated 30.12.1992 cannot be regarded as the resignation of the Appellant for the purpose of application of Pension Rules. Resignation of an employee is covered by separate provisions under the SHASTRI’s

award and in terms of the said award, in case of resignation, the employee concerned has to submit a notice of resignation to the management and it comes into effect automatically after the expiry of the notice period. In the case of J.K. COTTON SPINNING AND WEAVING MILLS COMPANY LIMITED vs STATE OF U.P, the Supreme Court held that if an employee makes his intention to resign his job to the employer it is a case of resignation. Similar is the view of the Supreme Court in MOTIRAM vs PARANDER wherein it was held that resignation means the spontaneous relinquishment of ones own right in relation to an office. Resignation connotes the act of giving up or relinquishing the office. It may be bilateral or unilateral depending upon whether the rule requires acceptance or not. The essence of resignation is that the initiative to resign should come from the employee concerned and that initiative should be voluntary and out of free will. Unless these two conditions co-exist, mere cessation of service brought about by a method de hors the voluntary action of the employee could not be regarded as a resignation of the employee. In this case, it is nobody's case that the Appellant submitted any notice of resignation. On the otherhand, it is a matter of record that the Appellant in reply to the notice from the employer, sought for extension of time and made clear her intention to resume duties".

9. It is sheer argumentative to say that voluntary cessation can be brought within the Regulation 22 of the pension scheme. Since, the voluntary cessation of service is not prohibited expressly by the Rules, I do not see justification on the part of the Bank in refusing the benefits of the Indian Bank Pension Regulation 1995 to the workman herein. The rule is applicable to such of the employees who were on the service of the Bank after January 1 1986 and who have retired on or after December 1 1993 but, before the notified date and Sh. M. Sundara thus qualifies himself for the benefits of Pension Regulation, like any other employee who have opted for pension scheme.

10. In the light of the above, the management is not justified in rejecting the relief of the pension scheme to the 1st Party workman. Hence, the following

AWARD

The reference is accepted, the 2nd Party is directed to implement the benefits of Indian Bank Pension Regulation 1995 to the workman Sh. M. Sundara, Ex Clerk-cum-Shroff of Mandya Branch, w.e.f 03.06.2006. The accrued pension amount shall be calculated along with simple interest of 6% per annum w.e.f 03.06.2006 and be paid within 60 days of publication of the Award. Otherwise the amount shall carry future interest of 8% per annum.

(Dictated, corrected and signed by me on 23rd April, 2019)

JUSTICE SMT. RATHNAKALA, Presiding Officer

नई दिल्ली, 6 मई, 2019

का. आ. 742.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 18/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.05.2019 को प्राप्त हुआ था।

[सं. एल-12011/151/2005-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 6th May, 2019

S.O. 742.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workmen received by the Central Government on 06/05/2019.

[No. L-12011/151/2005-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT
BANGALOREDATED : 23RD APRIL, 2019

PRESENT : Justice Smt. Rathnakala, Presiding Officer

C.R No. 18/2006

I Party

The General Secretary,
Syndicate Bank Staff Association,
2nd Floor, Near to Tourist Hotel,
Anand Rao Circle,
Bangalore – 560009.

Advocate for I Party : Sh.Muralidhara

Advocate for II Party: Sh. Ramesh Upadhyaya

II Party

The General Manager (P),
Syndicate Bank,
General Manager's Office
No. 69, 9th Main, 3rd Block,
Jayanagar,
Bangalore – 560011

AWARD

The Central Government vide Order No.L-12011/151/2005-IR(B-II) dated 28.04.2006 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

"Whether the action of the management of Syndicate Bank in imposing the punishment of reduction in basic pay by one stage, non-releasing of annual increment as on 01.02.2004 and effecting recovery of Rs. 19,945.89 as financial loss from Smt. R.E. Jane, Clerk, Syndicate Bank, Shoolay Branch, Bangalore is legal and justified? If not, to what relief she is entitled to?"

1. The claim of the 1st Party Smt. R.E. Jane is, she was working as a Clerk at Shoolay, Bangalore Branch of the 2nd Party, she was issued charge sheet on the allegation of gross misconduct of "doing act prejudicial to the interest of the Bank involving the Bank in financial loss" vide clause 5(j) of the Bipartite Settlement dated 10.04.2002. Since, she denied the charges Domestic Enquiry was formed. The Enquiry Officer held her guilty of misconduct, she submitted her remarks to the findings of the enquiry, she was proposed with the punishment of reduction in basic pay by one stage for a period of one year vide the letter of Disciplinary Authority dated 22.10.2003 and thereafter the punishment order was confirmed. Her appeal against the punishment order was rejected by the Appellate Authority vide his proceedings dated 25.03.2004; the Disciplinary Authority vide his administrative order dated 22.04.2004 directed to recover a sum of Rs. 15,000/- with commercial rate of interest and the same was recovered from her salary, she was due for annual increment on 01.02.2004 and same was released after one year i.e., 01.02.2005. The Findings of the Enquiry Officer is perverse and the consequent punishment order is backed.

2. The counter statement of the 2nd Party is to the effect that, there is no valid reason for the Disciplinary Authority to differ from the findings of the Enquiry Officer. Taking into consideration the records and being convinced that, the proposed punishment would not be disproportionate to the gravity of misconduct committed; the Disciplinary Authority confirmed the proposed punishment. This Tribunal passed award on 28.11.2006 thereby dismissing the reference since, the 1st Party had not filed the claim statement and did not prosecute the proceedings though several opportunity was given. The charge was proved in the enquiry based on the oral and documentary evidence; punishment imposed is proportionate to the gravity of misconduct.

3. It is from records that, vide order dated 28.11.2006, the reference was rejected and the 1st Party workman filed an Miscellaneous application which was registered as Misc No. 17/2006, the award passed on 28.11.2006 was thus recalled and the matter was opened.

4. On the rival pleadings two preliminary issues were framed, one regarding the fairness of Domestic Enquiry another regarding the question, whether the 1st Party workman Smt. R.E. Jane is a workman under section 2(s) of the Act.

5. The 1st Party gave up its challenge to the Fairness of the Domestic Enquiry. Thus, the Fairness of the Domestic Enquiry is ordered affirmatively in favour of the 1st Party. Both have addressed arguments.

6. The allegation of the charge sheet dated 05.05.2003 read thus :-

- (i) That you have been working as Clerk at Shoolay Branch, Bangalore, since 16.06.2000 and while functioning in your position as such, the following circumstances appear against you :
- (ii) That M/s LIC Housing Finance Ltd., Bangalore who is maintaining Current A/c No.1690 with our Shoolay

Branch, Bangalore, have been issued with Cheque book containing cheque leaves Nos. 863501 to 864600. Out of the said cheque book, a cheque bearing No. 863520 dated 22.08.02 for Rs.60,000/- was presented for payment across the counter on 22.08.02. After the said cheque was passed by the Section Officer, payment was made by you as you were working as Cashier on 22.08.2002.

- (iii) That the account holders M/s. LIC Housing Finance Ltd., has subsequently lodged a complaint with the Bank saying that the cheque in question was not issued by them and that a sum of Rs. 60,000/- has been fraudulently withdrawn from the said account.
- (iv) That with regard to the above cheque, it is observed that the said cheque was an A/c Payee crossed cheque, drawn in favour of "overseas" and was presented for payment across the counter.
- (v) That as per para 2.8.2 of Manual of Instructions (Volume-I), when cheques are presented for payment in cash, the cheque should be scrutinised to see that it is free from any of the defects. Further, before paying the amount, the cashier should ensure that the cheque is properly passed and that only on being satisfied that the cheque is properly passed, the amount should be paid.
- (vi) That as per the guidelines mentioned under para 2.9.0 of Manual of Instructions on "passing of cheques, a crossed cheque" should not be paid in cash over the counter. Further as per the guidelines mentioned under para 2.10.0 of Manual of Instructions (Volume-I) on "crossing of cheques", cash cannot be paid over the counter for crossed cheques.
- (vii) That in terms of the above said guidelines, even though the section officer had passed for payment of a crossed cheque, the same shall not be a proper passing because crossed cheque cannot be passed for payment across the counter and as such the cashier cannot make payment of the cheque which is not properly passed.
- (viii) From the above circumstances, it is evident that you have made payment of Rs. 60,000/- against a crossed cheque across the counter in violation of the guidelines cited above. You have also failed to notice that the above cheque has been drawn in favour of "overseas" which is vague and not referring to any individual. You have also failed to observe that since the cheque was marked A/c Payee it should have been presented either in clearing by the other Banker or should have been transferred to an account in the name of "overseas". As such you have failed to perform your duties as expected of you as per the guidelines.
- (ix) Thus, the negligence/lapses on your part as narrated above facilitated perpetration of fraud resulting in withdrawal of Rs. 60,000/- from Current A/c 1690, thereby the Bank incurred financial loss. Your above acts are detrimental to the interest of the Bank besides tarnishing the image and reputation of the Bank.

(x) The above acts of commissions and omissions reported against you constitute Gross Misconduct within the meaning of clause 5 of the Bipartite Settlement (Memorandum of Settlement) dated 10.04.2002. You are therefore charged with the Gross Misconduct of "doing act prejudicial to the interest of the Bank involving the Bank in financial loss" vide clause 5(j) of the Bipartite Settlement (Memorandum of Settlement) dated 10.04.2002.

7. During the enquiry on behalf of the Management 2 witnesses were examined and 13 documents were marked. 1st Party examined herself and marked 3 documents.

8. First witness for the management/the then Branch Manager deposed to the effect that, a letter dated 02.12.2002 was received from LIC Housing Finance Limited requesting to reimburse the amount of Rs. 60,000/- which is fraudulently withdrawn from their Current Account maintained with the Bank. He identified the photocopy of the cheque for Rs. 60,000/- pertaining to the Current Account of the LIC and the letter received from LIC. MW-1 identified the relevant documents and deposed to the effect that, a cheque dated 22.08.2002 received from LIC was entered and debited in the computer by Smt. Jayalakshmi, Clerk and passed the cheque to the CSE, Cashier made the payment. It was an Account payee cheque and the payee is mentioned as "Overseas". The signature of the person who obtained the cash is not there on the back of the cheque. When a crossed cheque is presented at the branch we cannot make cash payment. In such case before making payment the crossing should be cancelled, cash cannot be paid against such cheque. MW-2 was the Investigating Officer who recorded the statements of witnesses and probed the documents.

9. The defence of the 1st Party was, she was orally entrusted with extra responsibility of debiting, clearing cheques on 22.08.2002 which is actually supervisory in nature, the cheque was debited and was duly passed for payment by the Passing Authority as self drawn cheque with signature verified and passed for payment seal along with date and signature of the passing authority; no debit scroll was maintained at the Branch as required under the rules of MOI (Manual Instruction) concerning to the 2nd Party. There was no Scroll Officer as envisaged under the MOI and it was not scrolled with Sl. No. Since, the cheque was crossed she informed the passing officer about the same for which he replied that crossing cancellation would be done subsequently and she should make the cash payment of the cheque. It was the usual practice of the LIC Housing Finance Ltd., to send crossed cheques for cash withdrawals and signature for crossing cancellation used to be obtained either prior to the payment or after the payment as per the directions from the passing authority. She identified the culprit who is incidentally the employee of LIC Housing Finance Ltd., and ultimately it resulted in his arrest. Paid vouchers were duly bundled and thereafter signed by the Head of the Branch after the due scrutiny of the vouchers and the cash vouchers bundles were kept in double lock. Hence, she had no opportunity to verify whether crossing was cancelled on cheque.

10. The Enquiry Officer analysed the evidence and also the various grounds of defence and concluded that, the Cashier has failed to perform her duty as expected by her and the 1st Party workman only to justify her lapse of making payment of an Account payee crossed cheque in violation of MOI, she failed to observe the account payee crossing and so also the passing officer. The cheque which has been passed with the defect cannot be said to have been passed properly. The defect apparent on the face of the cheque and which was within the knowledge of CSE was overlooked by her before making payment. Therefore, due to the contributory negligence of the Clerk, Passing Officer and the Cashier the Bank incurred a loss of Rs. 60,000/- for which all the three are accountable.

11. Whatever be the interpretation of clause MOI, the fact remains that the 1st Party while in cash counter had made payment of Rs. 60,000/- in an account payee cheque. The Disciplinary Authority considered all her remarks to the Enquiry Report. On her contention that Passing Officer had instructed her to make payment against the crossing cheque due to which she made payment. The Disciplinary Authority held that “..... even then the cashier shall not carry out such instructions of the Officer in violation of MOI when crossing was not cancelled. Having made the payment without getting the crossing cancelled, she cannot totally disassociate from the transaction nor avoid her responsibility/accountability”. The Disciplinary Authority further observed that, the Bank has already paid Rs. 60,000/- to the LIC and all the three Officials are responsible for the loss arising out of their misconduct. A sum of Rs. 30,000/- is accepted by the Passing Officer and Rs. 15,000/- by the Counter Clerk as their share of total loss of Rs. 60,000/-.

12. It cannot be said that the punishment imposed on the 1st Party workman is either excessive or arbitrary. It was the submission at the Bar that 1st Party has been promoted by the 2nd Party and she no more retains the status of the workman under section 2(s) of the Industrial Dispute Act as held in (2012)1 SCC 619, Air India Cabin Crew Association and others vs Union of India and others. However, they have not produced any documentary proof to remove her from the status of workman under section 2(s) of the Industrial Dispute Act. The punishment order imposed on her is on the basis of the admitted facts only, negligence on the part of all the three Officials is evident and she cannot pass on the burden on the other two and get through. The punishment order does not warrant interference. Hence, the following

AWARD

The reference is rejected.

(Dictated, corrected and signed by me on 23rd April, 2019)

JUSTICE SMT. RATHNAKALA, Presiding Officer

नई दिल्ली, 6 मई, 2019

का. आ. 743.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कांदला पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद (गुजरात) के पंचाट (संदर्भ संख्या 123/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 06.05.2019 को प्राप्त हुआ था।

[सं. एल-37011/07/2011-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 6th May, 2019

S.O. 743.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 123/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure in the Industrial Dispute between the management of Kandla Port Trust and their workmen received by the Central Government on 06/05/2019.

[No. L-37011/07/2011-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD**

Present : Pramod Kumar Chaturvedi, Presiding Officer, CGIT cum Labour Court,
Ahmedabad,

Dated 03rd April, 2019

ce: (CGITA) No- 123/

The Chairman.

Kandla Port Trust,
Administrative Office, P.B. No. 50,
Gandhidham (Gujarat) – 370201 ...First Party
V/

For the First Party : Shri K.V. Gadhiya
For the Second Party : Shri N.H. Rathod

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-37011/07/2011-IR(B-II) dated 30.08.2012 referred the dispute for adjudication to the Central Government Industrial Tribunal cum Labour Court, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of the management of Kandla Port Trust in not enlisting Shri Mohmed Ismail Saicha as Daily Rates Worker although he has worked for 240 days, is legal and justified? What relief the concerned workman is entitled to?”

1. The reference dates back to 30.08.2012 and received on 10.09.2012 from Ministry of Labour and Employment, New Delhi for adjudication and passing the award.
 2. After issuing notice to the parties, the second party submitted the statement of claim Ex. 6 on 05.08.2013 and the first party submitted the written statement Ex. 7 on 26.11.2013.
 3. The second party workman in his statement of claim has alleged that he had been working as Khalasi since the month of October, 1982 continuously and worked till July 1983 for more than 240 days in the calendar year but his service were terminated without giving notice and notice pay violating the provisions of Section 25 F, G and H of the Industrial Disputes Act. Therefore, he has prayed that he may be reinstated as daily rate worker.
 4. The first party in his written statement Ex. 7 submitted that the second party workman Mohmed Ismail Saicha was not a workman within the definition of Section 2 (s) of the Industrial Disputes Act. The averments made in the statement of claim are not true. The reference has been moved after a period of 27 years; therefore, the reference is liable to be dismissed.
 5. On the basis of the pleadings, the following issues arise:
 - i. Whether the action of the management of Kandla Port Trust in not enlisting Shri Mohmed Ismail Saicha as Daily Rates Worker although he has worked for 240 days, is legal and justified?
 - ii. To what relief, if any, the concerned workman is entitled?
 6. Issue No. i and ii: As both the issues are interrelated, therefore, are decided together. The burden of proof of these issues lies on the second party workman who submitted the affidavit Ex. 8 reiterating the averments made in the statement of claim and has not said anything contrary to his examination-in-chief. In his cross-examination, he has stated that he has filed his case enlisting him as daily rate worker where he worked till 1983. Thereafter, he did not report for work and moved the case in 2012. He was not given any appointment letter. His date of birth is 01.03.1964.
 7. The first party did not prefer to give any oral evidence.
 8. The second party workman has filed documents vide list Ex. 9 regarding the engagement of non-pool daily rated/part-time persons, approved list of daily rated/part-time persons who have worked prior to 31.12.2001, certificate of working days of the workman etc.
 9. I heard and considered the evidences and arguments of learned counsel of the parties available on the record. The workman has already admitted in his cross-examination that he worked till the year 1983. Thereafter, he did not report for work and has filed this reference after a delay of more than 27 years. He has also not lead any

evidence that he would have worked for more than 240 days in any calendar year. Thus the reference is not maintainable in the light of the aforesaid evidence of the workman. The delay in moving the reference is so high that the workman deserves no relief. Thus both the issues are decided against the workman. The reference is dismissed.

10. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 6 मई, 2019

का. आ. 744.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स (लिमिटेड) के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलूर के पंचाट (संदर्भ संख्या 119/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.05.2019 को प्राप्त हुआ था।

[सं. एल-29012/57/2006-आई आर (एम)]

डॉ. के. हिमांशु, अवर सचिव

New Delhi, the 6th May, 2019

S.O. 744.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 119/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation the management of M/s. Mysore Minerals Limited and their workmen which was received by the Central Government on 03/05/2019.

[No. L-29012/57/2006-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 10th APRIL 2019

Present : JUSTICE SMT. RATHANAKALA, Presiding Officer,
C R No.119/2007

I Party

Sri Beeregowda,
S/o late Ninge Gowda, Chatna Halli, Ananthi
Post, Bagur Hobli, Channarayapatna Taluk,
HASSAN DIST.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
BANGALORE – 560 001.

Appearances

I Party : Shri K T Govinde Gowda, Advocate

II Party : Sh. T K VedaMurthy, Advocate

1. The Government of India, Ministry of Labour vide order No. L-29012/57/2006-IR(M) dated 24.08.2007 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as “The Act”) (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDEULE

“Whether the action of the management of Mysore Minerals Limited in terminating the services/superannuating the services of Sh. Beeregowda w.e.f. 29/6/1998 is just and legal? If not, to what relief the workman is entitled?”

2. The case of the 1st party workman is, he joined the service of the II Party on 25.05.1982 at its Mines Unit viz. Byrapura Chromite Mines, Channarayapatna Taluk, Hassan District while joining service he had furnished his age as 28 years i.e., date of birth being 25.05.1954 as per the horoscope maintained by his parents. Same date of birth is mentioned in all his statutory records, he was entitled to continue in service upto 25.05.2012.

3. It is further stated, 1st Party subjected him to medical examination and refused employment w.e.f. 29.06.1998 on the plea that he has reached superannuation age of 58 years, termination order is issued, he is unemployed and has a

dependent family, the 2nd Party officials obtained his signature on various applications and submitted his application to EPF authorities. They have terminated many of his co-workers. In one such case of the workman (Smt. K Dundamma vs. MML WP No. 5615/2001(S-RES)) was reinstated with full back wages and continuity of service by the order of the Hon'ble High Court. Similar WP 2610/2001 connected with other cases are also allowed on 01.06.2006. The 2nd Party had not provided safety measures to work in the Mines. There was no proper working/service condition. During 1995 – 1996 they entrusted some of the mining development works in Hassan District to some private contractors without following due process of law. Because of this transaction they faced administrative problems, there was no production and they suffered loss, ultimately they decided to terminate the workers illegally by resorting to so called medical examination during the year 1998. The medical examination was conducted by one MBBS Doctor but not by Doctor of Rank of Assistant Civil Surgeon as defined under rule 19(C) of mines act. He is terminated from service on the basis of Medical examination Report. Age certificate issued by Medical Officer summarily and in a blind manner. They have no right to refuse employment to him, remove his name from the Muster Rolls in unilateral manner without following due process of law. Hence, prayer for a direction to reinstate the 1st Party workman retrospectively with continuity of service etc.

4. The claim allegation is assailed by the 2nd Party in its written statement on following lines; he had not produced any authenticated document regarding his date of birth, his alleged horoscope is concocted one. It is further contended that upon the intervention of the employee's union of the 2nd Party the 1st Party was subjected to medical examination and he was not allowed to work after 26.02.2001 since he had reached the age of superannuation. Medical Examination is conducted as per the mines rules 1955 and same does not affect any of the provisions of the mines rules. Delay in raising the dispute is not supported by any valid material. He is not entitled for any relief. He was relieved after he attained the age of superannuation, with all terminal benefits. During the medical examination he was found to be more than 58 plus years (Ex W-1). He has not questioned the said report before the appellate board prescribed under the Mines Rules 1955.

5. Both parties have adduced their evidence, the workman has examined himself as WW 1 and produced documents Ex W-1 to Ex W-5. On behalf of the 2nd Party their Assistant Manager / MW 1 was examined.

6. As such the 1st Party workman is terminated from service w.e.f. 26.02.2001. Going by his version he would have reached superannuation of 58 years on 25.05.2012. For the purpose of statutory records B Records, EPF Records and Service Record his date of birth was mentioned as 25.05.1954 on the basis of Horoscope as provided by him.

7. The 2nd Party has its own certified standing orders i.e., MML (Officers and Employees) Conditions of Service, Conduct and Disciplinary Proceedings Rules:

Rule /clause 18.0 pertaining to the age of superannuation reads thus:

18.1 : Every Officer/ Employee of the Company shall attain the age of Superannuation on his reaching the age of 58 years and shall retire from the services of the company.

18.2 : The age and date of birth of the Officer / Employee as recorded in the records of the Company shall be the determining factor for retirement.

18.3 : A change in the date of birth as entered in the Company records can only be affected on a Judgement of a Competent Court. Except on a Judgement of a Court the date of birth once recorded will not be changed at the request of the Officer/ Employee under any Circumstances.

Termination further is governed by Rule 24 which reads thus

“ Rule / Clause 24.0 – Termination :

24.1 : The Services of a permanent officer / Employee can be terminated either by the company or by the Officer / Employee himself by issue of three month's notice, or payment of three month's salary in lieu of such notice.

24.2 : A resignation tendered by an Officer/Employee would become final on its acceptance by the company. However, where the Management finds it expedient, it may refuse to accept the resignation in which event the relation of employer-employee between the parties continues to subsist.”

8. The 2nd party neither changed the date of birth which was accepted earlier nor did they conduct any disciplinary action for submitting wrong date of birth. It is also a fact at that point of time there was mass termination on the ground of either overage or medically unfit condition. They have not obtained permission for such termination/retrenchment as warranted by Section 25N(1) of ID Act. Ex W – 1 is the copy of the medical certificate in Form No. O which is identified by MW 1. It is certified to the extent that he appears to be 55 years plus of age. For taking such opinion except for clinical examination they have not subjected him to Radiological examination.

9. He is a manual worker not knowing intricacy of legal procedure. For not challenging the medical certificate before Appellate Authority due to ignorance shall not give advantage over him to the 2nd Party Management. Wherefore, the termination of the 1st Party on the ground of attaining superannuation is illegal and cannot be sustained. Ofcourse, there is delay of 9 years in raising the dispute. It is also obvious that Hon'ble High Court of Karnataka allowed a Writ Petition of a similarly placed workman who was removed from service on the similar ground and the Writ Appeal thereon came

to be dismissed. The 1stParty herein has mustered courage thereafter to raise present industrial dispute. At the same time one has to see through the plight of an illiterate workman who is thrown out of his livelihood in the midway of his life.

10. Therefore, this tribunal is of the considered opinion that the delay in raising the dispute shall not be an obstacle to set right the injustice caused on the illegal termination of the I party workman.

11. His reinstatement at this stage is out of question since he is aged more than 60 years as per his own contention. Considering the illegality of the termination and also the delay in raising the dispute in the considered opinion of this tribunal, lumpsum compensation of Rs. 1 lac would do complete justice in the matter.

AWARD

Reference is accepted. 2ndParty is directed to pay lumpsum compensation of Rs. 1 lac to the 1stParty workman Sh. Beeregowda within 60 days from the date of publication of award failing which the amount shall carry future interest @ 8% per annum.

(Dictated to U D C, transcribed by him, corrected and signed by me on 10th April 2019)

JUSTICE SMT. RATHNAKALA, Presiding Officer

नई दिल्ली, 6 मई, 2019

का. आ. 745.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 74/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.05.2019 को प्राप्त हुआ था।

[सं. एल-29012/10/2007-आई आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th May, 2019

S.O. 745.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 74/2007) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation the management of M/s Mysore Minerals Limited and their workmen, which was received by the Central Government on 03/05/2019.

[No. L-29012/10/2007-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 10th APRIL 2019

PRESENT : JUSTICE SMT. RATHNAKALA, Presiding Officer

C R No. 74/2007

I Party

Sri Chowdegowda,
S/o Late Kampini Gowda, MML Workers, Hebalu
Village, Bathikere Post, Nuggehalli Hobli,
Channarayapatna Taluk, HASSAN DIST.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
BANGALORE – 560 001.

Appearances

I Party : Shri K T Govinde Gowda, Advocate II Party : Sh. T K Veda Murthy, Advocate

1. The Government of India, Ministry of Labour vide order No. L-29012/10/2007-IR(M) dated 16.05.2007 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes

Act, 1947 (hereinafter referred as “The Act”) (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Sri Chowedegowda w.e.f. 16/4/1998? If not, to what relief the workman is entitled to?”

2. The case of the 1st party workman is, he joined the service of the II Party on 07.10.1982 at its Mines Unit viz. Jamboor Chromite Mines, Channarayapatna Taluk, Hassan District while joining service he had furnished his age as 35 years i.e., date of birth being 07.10.1947 as per the horoscope maintained by his parents. Same date of birth is mentioned in all his statutory records, he was entitled to continue in service upto 07.10.2005.

3. It is further stated, 2nd Party subjected him to medical examination on 26.02.2001. They refused work to him on 16.04.1998, on the plea that he has reached superannuation age of 58 years, termination order is issued on 22.05.1998, he is unemployed and has a dependent family, the 2nd Party officials obtained his signature on various applications and submitted his application to EPF authorities. They have terminated many of his co-workers. In one such case of the workman(Smt. K Dundamma vs. MML WP No. 5615/2001(S-RES)) was reinstated with full back wages and continuity of service by the order of the Hon’ble High Court. Similar WP 2610/2001 connected with other cases are also allowed on 01.06.2006. The 2nd Party had not provided safety measures to work in the Mines. There was no proper working/service condition. During 1995 – 1996 they entrusted some of the mining development works in Hassan District to some private contractors without following due process of law. Because of this transaction they faced administrative problems, there was no production and they suffered loss, ultimately they decided to terminate the workers illegally by resorting to so called medical examination during the year 1998. The medical examination was conducted by one MBBS Doctor but not by Doctor of Rank of Assistant Civil Surgeon as defined under rule 19(C) of mines act. He is terminated from service on the basis of Medical examination Report dated 19.02.1998. Age certificate issued by Medical Officer summarily and in a blind manner. They have no right to refuse employment to him, remove his name from the Muster Rolls in unilateral manner without following due process of law. Hence, prayer for a direction to reinstate the 1st Party workman retrospectively with continuity of service etc.

4. The claim allegation is assailed by the 2nd Party in its written statement on following lines; he had not produced any authenticated document regarding his date of birth, his alleged horoscope is concocted one. It is further contended that upon the intervention of the employee’s union of the 2nd Party the 1st Party was subjected to medical examination and he was not allowed to work after 16.04.1998 since he had reached the age of superannuation. Medical Examination is conducted as per the mines rules 1955 and same does not affect any of the provisions of the mines rules. Delay in raising the dispute is not supported by any valid material. He is not entitled for any relief. He was relieved after he attained the age of superannuation, with all terminal benefits. During the medical examination he was found to be more than 58 years. He has not questioned the said report before the appellate board prescribed under the Mines Rules 1955.

5. Both parties have adduced their evidence, the workman examined himself as WW 1 and produced documents Ex W-1 to Ex W-5. On behalf of the 2nd Party their Assistant Manager / MW 1 was examined.

6. As such the 1st Party workman is terminated from service w.e.f. 22.05.1998. Going by his version he would have reached superannuation of 58 years on 07.10.2005. For the purpose of statutory records B Records, EPF Records and Service Record his date of birth was mentioned as 02.08.1956 on the basis of Horoscope as provided by him.

7. The 2nd Party has its own certified standing orders i.e., MML (Officers and Employees) Conditions of Service, Conduct and Disciplinary Proceedings Rules:

Rule/clause 18.0 pertaining to the age of superannuation reads thus:

18.1 : Every Officer/ Employee of the Company shall attain the age of Superannuation on his reaching the age of 58 years and shall retire from the services of the company.

18.2 : The age and date of birth of the Officer / Employee as recorded in the records of the Company shall be the determining factor for retirement.

18.3 : A change in the date of birth as entered in the Company records can only be affected on a Judgement of a Competent Court. Except on a Judgement of a Court the date of birth once recorded will not be changed at the request of the Officer/ Employee under any Circumstances.

Termination further is governed by Rule 24 which reads thus

“ Rule / Clause 24.0 – Termination :

24.1 : The Services of a permanent officer/Employee can be terminated either by the company or by the Officer/ Employee himself by issue of three month’s notice, or payment of three month’s salary in lieu of such notice.

24.2 : A resignation tendered by an Officer/Employee would become final on its acceptance by the company. However, where the Management finds it expedient, it may refuse to accept the resignation in which event the relation of employer-employee between the parties continues to subsist.”

8. The 2nd party neither changed the date of birth which was accepted earlier nor did they conduct any disciplinary action for submitting wrong date of birth. It is also a fact at that point of time there was mass termination on the ground of either overage or medically unfit condition. They have not obtained permission for such termination/retrenchment as warranted by Section 25N(1) of ID Act. For taking the opinion that the 1st Party workman has crossed the superannuation, except for clinical examination they have not subjected him to Radiological examination.

9. He is a manual worker not knowing intricacy of legal procedure. For not challenging the medical certificate before Appellate Authority due to ignorance shall not give advantage over him to the 2nd Party Management. Wherefore, the termination of the 1st Party on the ground of attaining superannuation is illegal and cannot be sustained. Ofcourse, there is delay of 9 years in raising the dispute. It is also obvious that Hon'ble High Court of Karnataka allowed a Writ Petition of a similarly placed workman who was removed from service on the similar ground and the Writ Appeal thereon came to be dismissed. The 1st Party herein has mustered courage thereafter to raise present industrial dispute. At the same time one has to see through the plight of an illiterate workman who is thrown out of his livelihood in the midway of his life.

10. Wherefore, this tribunal is of the considered opinion that the delay in raising the dispute shall not be an obstacle to set right the injustice caused on the illegal termination of the I party workman.

11. His reinstatement at this stage is out of question since he is aged more than 60 years as per his own contention. Considering the illegality of the termination and also the delay in raising the dispute in the considered opinion of this tribunal, lumpsum compensation of Rs. 1 lac would do complete justice in the matter.

AWARD

Reference is accepted. 2nd Party is directed to pay lumpsum compensation of Rs. 1 lac to the 1st Party workman Sh. Chowdegowda within 60 days from the date of publication of award failing which the amount shall carry future interest @ 8% per annum.

(Dictated to U D C, transcribed by him, corrected and signed by me on 10th April 2019)

JUSTICE SMT. RATHNAKALA, Presiding Officer

नई दिल्ली, 6 मई, 2019

का. आ. 746.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बैंगलूर के पंचाट (संदर्भ संख्या 08/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.05.2019 को प्राप्त हुआ था।

[सं. एल-29012/81/2007-आई आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th May, 2019

S.O. 746.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 08/2008) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation the management of M/s Mysore Minerals Limited and their workmen which was received by the Central Government on 03/05/2019.

[No. L-29012/81/2007-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 10th APRIL 2019

PRESENT : JUSTICE SMT. RATHNAKALA, Presiding Officer

C R No. 08/2008I Party

Smt. Narsamma,
W/o Late Hanumaiah, MML Worker,
Chevenahalli Village, Nagar Navile Post,
BagurHobli,
ChannarayapatnaTaluk,
HASSAN DIST.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
BANGALORE – 560 001.

Appearances

I Party : Shri K T GovindeGowda, Advocate II Party : Sh. T K VedaMurthy, Advocate

1. The Government of India, Ministry of Labour vide order No. L-29012/81/2007-IR(M)dated 06.02.2008 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as “The Act”) (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDULE

“Whether the termination of Smt. Narasamma by the management of Mysore Minerals Limited w.e.f. 2/6/1998 is justified? If not, to what relief the workman is entitled to?”

2. The case of the 1st party workman is, she joined the service of the 2ndParty on 02.08.1984 at its Mines Unit viz. Thagadur Chromite Mines, Channarayapatna Taluk, Hassan District, while joining service she had furnished his age as 35 years i.e., date of birth being 03.11.1945 as per the horoscope maintained by her parents. Same date of birth is mentioned in all his statutory records, she was entitled to continue in service upto 03.11.2004.
3. It is further stated,1stParty was subjected to medical examination and refused employment 02.06.1998 on the plea that she has reached superannuation age of 58 years, termination order is issued, she is unemployed and has a dependent family, the 2nd Party officials obtained her signature on various applications and submitted his application to EPF authorities. They have terminated many of her co-workers. In one such case of the workman(Smt. K Dundamma vs. MML WP No. 5615/2001(S-RES)) was reinstated with full back wages and continuity of service by the order of the Hon’ble High Court. Similar WP 2610/2001 connected with other cases are also allowed on 01.06.2006. The 2ndParty had not provided safety measures to work in the Mines. There was no proper working/service condition. During 1995 – 1996 they entrusted some of the mining development works in Hassan District to some private contractors without following due process of law. Because of this transaction they faced administrative problems, there was no production and they suffered loss, ultimately they decided to terminate the workers illegally by resorting to so called medical examination during the year 1998. The medical examination was conducted by one MBBS Doctor but not by Doctor of Rank of Assistant Civil Surgeon as defined under rule 19(C) of mines act. She is terminated from service on the basis of Medical examination Report. Age certificate issued by Medical Officer summarily and in a blind manner. They have no right to refuse employment to her, remove her name from the Muster Rolls in unilateral manner without following due process of law. Hence, prayer for a direction to reinstate the 1stParty workman retrospectively with continuity of service etc.
4. The claim allegation is assailed by the 2nd Party in its written statement on following lines; she had not produced any authenticated document regarding his date of birth, her alleged horoscope is concocted one. It is further contended that upon the intervention of the employee’s union of the 2nd Party the 1st Party was subjected to medical examination and she was not allowed to work after 02.06.1998 since she had reached the age of superannuation. Medical Examination is conducted as per the mines rules 1955 and same does not affect any of the provisions of the mines rules. Delay in raising the dispute is not supported by any valid material. She is not entitled for any relief. She was relieved after attaining the age of superannuation, with all terminal benefits. During the medical examination she was found to be more than 58 years. She has not questioned the said report before the appellate board prescribed under the Mines Rules 1955.
5. Both parties have adduced their evidence, the workman has examined herself as WW 1 and produced documents Ex W-1 to Ex W-5. On behalf of the 2nd Party their Assistant Manager / MW 1 was examined.
6. As such the 1st Party workman is terminated from service w.e.f. 02.06.1998. Going by her version she would have reached superannuation of 58 years on 03.11.2004. For the purpose of statutory records B Records, EPF Records and Service Record her date of birth was mentioned as 03.11.1945 on the basis of Horoscope as provided by her.
7. The 2nd Party has its own certified standing orders i.e., MML (Officers and Employees) Conditions of Service, Conduct and Disciplinary Proceedings Rules:

Rule /clause 18.0 pertaining to the age of superannuation reads thus:

18.1 : Every Officer/ Employee of the Company shall attain the age of Superannuation on his reaching the age of 58 years and shall retire from the services of the company.

18.2 : The age and date of birth of the Officer / Employee as recorded in the records of the Company shall be the determining factor for retirement.

18.3 : A change in the date of birth as entered in the Company records can only be affected on a Judgement of a Competent Court. Except on a Judgement of a Court the date of birth once recorded will not be changed at the request of the Officer/ Employee under any Circumstances.

Termination further is governed by Rule 24 which reads thus

“ Rule / Clause 24.0 – Termination :

24.1 : The Services of a permanent officer/Employee can be terminated either by the company or by the Officer / Employee himself by issue of three month's notice, or payment of three month's salary in lieu of such notice.

24.2 : A resignation tendered by an Officer/Employee would become final on its acceptance by the company. However, where the Management finds it expedient, it may refuse to accept the resignation in which event the relation of employer-employee between the parties continues to subsist.”

8. The 2nd party neither changed the date of birth which was accepted earlier nor did they conduct any disciplinary action for submitting wrong date of birth. It is also a fact at that point of time there was mass termination on the ground of either overage or medically unfit condition. They have not obtained permission for such termination/retrenchment as warranted by Section 25N(1) of ID Act. For taking the opinion that she has crossed superannuation, except for clinical examination they have not subjected her to Radiological / Scientific examination.

9. She is a manual worker not knowing intricacy of legal procedure. For not challenging the medical certificate before Appellate Authority due to ignorance shall not give advantage over her to the 2nd Party Management. Wherefore, the termination of the 1st Party on the ground of attaining superannuation is illegal and cannot be sustained. Ofcourse, there is delay 10 years in raising the dispute. It is also obvious that Hon'ble High Court of Karnataka allowed a Writ Petition of a similarly placed workman who was removed from service on the similar ground and the Writ Appeal thereon came to be dismissed. The 1st Party herein has mustered courage thereafter to raise present industrial dispute. At the same time one has to see through the plight of an illiterate workman who is thrown out of his livelihood in the midway of his life.

10. Wherefore, this tribunal is of the considered opinion that the delay in raising the dispute shall not be an obstacle to set right the injustice caused on the illegal termination of the I party workman.

11. Her reinstatement at this stage is out of question since she is aged more than 60 years as per her own contention. Considering the illegality of the termination and also the delay in raising the dispute in the considered opinion of this tribunal, lumpsum compensation of Rs. 50,000.00 would do complete justice in the matter.

AWARD

Reference is accepted. 2nd Party is directed to pay lumpsum compensation of Rs. 50,000.00 to the 1st Party workman Smt. Narsamma within 60 days from the date of publication of award failing which the amount shall carry future interest @ 8% per annum.

(Dictated to U D C, transcribed by him, corrected and signed by me on 10th April 2019)

JUSTICE SMT. RATHNAKALA, Presiding Officer

नई दिल्ली, 6 मई, 2019

का. आ. 747.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलूर के पंचाट (संदर्भ संख्या 33/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.05.2019 को प्राप्त हुआ था।

[सं. एल-29012/33/2008-आई आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th May, 2019

S.O. 747.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 33/2008) of the Central Government Industrial Tribunal/Labour

Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation the management of M/s Mysore Minerals Limited and their workmen which was received by the Central Government on 03/05/2019.

[No. L-29012/33/2008-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 4th APRIL 2019

PRESENT : JUSTICE SMT. RATHNAKALA, Presiding Officer

C R No. 33/2008

I Party

Sri Sannaiah,
S/o Late Sh. Rangappa,
Hullenahalli, Agrahara Belaguli Post, Nuggehalli
Hobli,
Channarayapatna Taluk,
HASSAN DIST.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
BANGALORE – 560 001.

Appearances

I Party : Shri K T Govinde Gowda, Advocate **II Party** : Sh. T K Veda Murthy, Advocate

1. The Government of India, Ministry of Labour vide order No. L-29012/33/2008-IR(M) dated 02.04.2008 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as “The Act”) (14 of 1947) referred the following Industrial Dispute to this Tribunal for adjudication:

SCHEDEULE

“Whether the termination of Shri Sannaiah by the management of Mysore Minerals Limited w.e.f. 26/2/2001 is justified? If not, to what relief the workman is entitled to?”

2. The case of the 1st party workman is, he joined the service of the 2nd Party on 02.08.1984 at its Mines Unit viz. Jambur Chromite Mines. While joining service he had furnished his age as 38 years i.e., date of birth being 02.08.1956 as per the horoscope maintained by his parents. Same date of birth is mentioned in all his statutory records, he was entitled to continue in service upto 02.08.2015.

3. It is further stated, 2nd Party subjected him to medical examination on 26.02.2001. They refused work to him, on the plea that he has reached superannuation age of 58 years, termination order is issued, he is unemployed and has a dependent family. The 2nd Party officials obtained his signature on various applications and submitted his application to EPF authorities. They have terminated many of his co-workers. In one such case of the workman (Smt. K Dundamma vs. MML WP No. 5615/2001(S-RES)) was reinstated with full back wages and continuity of service by the order of the Hon’ble High Court. Similar WP 2610/2001 with connected cases is also allowed on 01.06.2006. The 2nd Party had not provided safety measures to work in the Mines. There was no proper working/service condition. During 1995 – 1996 they entrusted some of the mining development works in Hassan District to some private contractors without following due process of law. Because of this transaction they faced administrative problems, there was no production and they suffered loss, ultimately they decided to terminate the workers illegally by resorting to so called medical examination during the year 1998. The medical examination was conducted by one MBBS Doctor but not by Doctor of Rank of Assistant Civil Surgeon as defined under rule 19(C) of mines act. He is terminated from service on the basis of Medical examination Report. Age certificate is issued by the Medical Officer summarily and in a blind manner. They have no right to refuse employment to him or to remove his name from the Muster Rolls in unilateral manner without following due process of law. Hence, prayer for a direction to reinstate the 1st Party workman retrospectively with continuity of service etc.

4. The claim allegation is assailed by the 2nd Party in its written statement on following lines; he had not produced any authenticated document regarding his date of birth, his alleged horoscope is concocted one. It is further contended that on the intervention of the employee’s union of the 2nd Party the 1st Party was subjected to medical examination and he was not allowed to work after 26.02.2001, since he had reached the age of superannuation. Medical Examination is conducted as per the mines rules 1955 and same does not affect any of the provisions of the mines rules. Delay in raising the dispute is not supported by any valid material. He is not entitled for any relief. He was relieved with all terminal

benefits after he attained the age of superannuation. He has not questioned the Medical report before the Appellate Board as prescribed under the Mines Rules 1955.

5. Both parties have adduced their evidence, the workman has examined himself as WW 1 and produced documents Ex W-1 to Ex W-5. On behalf of the 2nd Party their Assistant Manager/MW 1 was examined.

6. As such the 1st Party workman is terminated from service w.e.f. 26.02.2001. Going by his version he would have reached superannuation of 58 years on 02.08.2015. For the purpose of statutory records like B Record, EPF and Record his date of birth was mentioned as 02.08.1956 on the basis of Horoscope provided by him.

7. The 2nd Party has its own certified standing orders i.e., MML (Officers and Employees) Conditions of Service, Conduct and Disciplinary Proceedings Rules:

Rule /clause 18.0 pertaining to the age of superannuation reads thus:

18.1 : Every Officer/ Employee of the Company shall attain the age of Superannuation on his reaching the age of 58 years and shall retire from the services of the company.

18.2 : The age and date of birth of the Officer/Employee as recorded in the records of the Company shall be the determining factor for retirement.

18.3 : A change in the date of birth as entered in the Company records can only be affected on a Judgement of a Competent Court. Except on a Judgement of a Court the date of birth once recorded will not be changed at the request of the Officer/ Employee under any Circumstances.

Termination further is governed by Rule 24 which reads thus

“Rule/Clause 24.0—Termination :

24.1 : The Services of a permanent officer/Employee can be terminated either by the company or by the Officer/Employee himself by issue of three month's notice, or payment of three month's salary in lieu of such notice.

24.2 : A resignation tendered by an Officer/Employee would become final on its acceptance by the company. However, where the Management finds it expedient, it may refuse to accept the resignation in which event the relation of employer-employee between the parties continues to subsist.”

8. The 2nd party neither changed the date of birth which was accepted earlier nor did they conduct any disciplinary action for submitting wrong date of birth. It is also a fact, at that point of time there was mass termination on the ground of either overage or medically unfit or temporary unfit condition. They have not obtained permission for such termination/retrenchment as warranted by Section 25N(1) of ID Act. Ex W – 1 is the copy of the medical certificate which is identified by MW 1. It is certified to the extent that he appears to be 55 years plus of age. For taking such opinion except for clinical examination, they have not subjected him to Radiological examination.

9. He is a manual worker, not knowing intricacy of legal procedure. For not challenging the medical certificate before Appellate Authority due to ignorance shall not give advantage over him to the 2nd Party Management. Wherefore, the termination of the 1st Party on the ground of attaining superannuation is illegal and cannot be sustained. Ofcourse, there is delay of more than 7 years in raising the dispute. It is also obvious that Hon'ble High Court of Karnataka allowed a Writ Petition of a similarly placed workman who was removed from service on the similar ground and the Writ Appeal thereon came to be dismissed. The 1st Party herein has mustered courage thereafter to raise present industrial dispute. At the same time one has to see through the plight of an illiterate workman who is thrown out of his livelihood in the midway of his life.

10. Wherefore, this tribunal is of the considered opinion that the delay in raising the dispute shall not be an obstacle to set right the injustice caused on the illegal termination of the I party workman.

11. The reinstatement at this stage is out of question since he is aged more than 60 years as per his own contention. Considering the illegality of the termination and also the delay in raising the dispute in the considered opinion of this tribunal, lumpsum compensation of Rs. 1 lac would do complete justice in the matter.

AWARD

Reference is accepted. 2nd Party is directed to pay lumpsum compensation of Rs. 1 lac to the 1st Party workman Sh. Sannaaiah within 60 days from the date of publication of award failing which the amount shall carry future interest @ 8% per annum.

(Dictated to U D C, transcribed by him, corrected and signed by me on 4th April 2019)

JUSTICE SMT. RATHNAKALA, Presiding Officer

नई दिल्ली, 6 मई, 2019

का. आ. 748.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स हिन्दुस्तान जिंक लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 53/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.05.2019 को प्राप्त हुआ था।

[सं. एल-43011/1/2012-आई आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th May, 2019

S.O. 748.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 53/2012) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Hindustan Zinc Limited and their workmen which was received by the Central Government on 03/05/2019.

[No. L-43011/1/2012-IR(M)]

D. K. HIMANSHU, Under Secy.

अनुबंध

सी.जी.आई.टी. प्रकरण सं. 53/2012

Reference No. L-43011/1/2012-IR (M) dt.: 04042012

04042019

उभय पक्ष आज भी उपस्थित नहीं हुए न ही माननीय उच्च न्यायालय के आदेश की प्रमाणित प्रति प्रस्तुत की है। माननीय उच्च न्यायालय राजस्थान, द्वारा S.B. C.W. Pet. No. 8007/12 हिन्दुस्तान जिंक लि. बनाम यूनियन ऑफ इण्डिया व अन्य में सोलह अन्य संबंधित रिट याचिकाओं के साथ पारित आदेश की वैब-प्रति इंटरनेट के माध्यम से प्राप्त की गई जो संलग्न पत्रावली रहे।

इस आदेश में माननीय उच्च न्यायालय द्वारा इस विवाद प्रकरण में भारत सरकार द्वारा दिनांक 04.04.2012 को संदर्भित औद्योगिक विवाद सं. L-43011/1/2012-IR (M) के संबंध में निम्नानुसार अधिमत व्यक्त किया है।

“The reference order dated 26.7.2010 and 4.4.2012 are in itself illegal in so far as there was no retrenchment or terminations of the workmen, who had opted for the benefits under the voluntary retirement scheme.....Therefore the terms of reference are hereby quashed and set-aside.”

इस न्यायिक आदेश के अनुसार इस अधिकरण को सम्प्रेषित उक्त औद्योगिक विवाद, वस्तुतः शेष न रहने से अस्तित्व में नहीं माना गया है तथा अपास्त कर दिया गया है—इसलिए इस अधिकरण द्वारा कोई अधिनिर्णय इस reference में किया जाना संभव नहीं रहा है। अतः यह प्रकरण इसी प्रकार उत्तरित किया जाता है। केन्द्र सरकार को धारा 17 (1) औद्योगिक विवाद अधिनियम के अंतर्गत सूचनार्थ व प्रकाशनार्थ प्रेषित किया जावें। प्रकरण निर्णीत में सम्मिलित हो व अभिलेखागार में जमा हो।

राधा मोहन चतुर्वेदी, पीठासीन अधिकारी

नई दिल्ली, 6 मई, 2019

का. आ. 749.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स एयरपोर्ट अथॉरिटी ऑफ इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ संख्या 93/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th May, 2019

S.O. 749.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 93/2016) of the Central Government Industrial Tribunal/Labour Court-1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Airport Authority of India and their workmen which was received by the Central Government on 03/05/2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA : PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, DWARKA COURTS COMPLEX : NEW DELHI.

ID No. 93 of 2016

General Secretary,
Indian Airports Kamgar Union (IAKU),
Through its General Secretary,
Qr No.B-140 Pocket A, INA Colony,
New Delhi.

...Workmen/Claimant`

Versus

The Chairman,
Airports Authority of India,
Rajiv Gandhi Bhawan,
Safdarjang Airport,
New Delhi 110003.

...Management/Respondent

AWARD

This Award shall dispose of a complaint preferred by the workmen under Section 33-A of the Industrial Disputes Act (hereinafter referred to as “the Act”). Briefly stated facts of the case as pleaded in the complaint are that the working hours of the employees of International Airports Authority of India which were fixed in the year 1972 and in respect of employees of National Airports Authority was fixed in the year, were from 9-30 AM to 5-30 PM and this continued to be so even after formation of Airports Authority of India in the year 1995. Management issued a circular No.02 of 2012 dated 17/1/2012 whereby employees were sought to be prematurely retired on attaining the age of 50 years, on the ground of inefficiency or doubtful integrity or on the ground of medical unfitness. The workmen/Union raised an industrial dispute and the Appropriate Government vide order dated 19/2/2014 referred the dispute before the Tribunal for adjudication which was registered as 39 of 2014. It is pleaded that during pendency of aforesaid dispute, the Management issued a circular No.1/2016 dated 6.1.2016 whereby working hours of the non-operational staff has been changed from 9-30 AM to 6-00 PM (with half an hour lunch break from 1-30 PM to 2.00 PM) instead of 9-30AM to 5-30 PM, which act of the Management is stated to be illegal, unjust and bad in law because as per provisions of Section 42(2)(b) and 43 of the Airport Authority of India, following three pre-conditions as imposed by the Legislature, for any rules and regulations to be made under the Act, were effective :-

- (i) Prior approval of the Central Govt.
- (ii) Notification in the official gazette
- (iii) Laying of the rules and regulations before each House of Parliament and agreement or disagreement of both the Houses of Parliament for making or not making the rules & regulations.

It is stated that without taking prior permission of the Tribunal/Labour Court, the impugned circular dated 6-1-2016 regarding change in working hours, has been issued by the Management and same is in utter violation of Section 33 of the Act. Even otherwise, the impugned circular has been issued without any notice as required under Section 9-A of the Act and as such the said circular is void ab initio. The workmen/Union made a representation dated 14/3/2016 to the Management, asking to withdraw the circular dated 6/1/2016 but to no response. Hence, prayer has been made for passing an Award, holding that the circular dated 6/1/2016 regarding change of working hours for non-operational duties of the staff from 9-30 AM to 5-30 PM to 9-30 to 6 PM as illegal, arbitrary and in violation of Section 33 read with Section 9-A of the Act and for directing the Management to restore the working hours as 9-30 AM to 5-30PM and pay over-time wages for the period worked by the workmen in excess by 30 minutes.

2. Management has resisted the claim of the Workmen Union and filed written statement, taking preliminary objections that the complaint under Section 33-A of the Act is not maintainable inasmuch as no conditions of service have been changed to the prejudice of the workmen and that the present complaint does not even remotely relates to the disputes in

ID No.39 of 2014 pending before the Tribunal. The complainant Union under the garb of present complaint has sought to challenge the Airport Authority of India (General Conditions of Service & Remuneration of Employees) Regulation, 2003 which were duly formulated under Section 42 of the Airports Authority of India Act and as such, this Tribunal has no jurisdiction to adjudicate the validity of regulations 2003 duly formulated under the Act. It is alleged that the present complaint is misuse of the process of law and that the Complainant Union has not approached with clean hands. It is also alleged that the working hours of the organization have been changed in accordance with law and after following the procedure and in accordance with powers conferred by Section 42 of Airport Authority of India Act, 1994 and Airport Authority of India (General Conditions of Service & Remuneration of Employees) Regulation, 2003 framed thereunder. It is prayed that present complaint under Section 33-A is not maintainable and that complainant Union is not entitled to any relief.

3. Rejoinder was filed on behalf of the workman/claimant, whereby the case as set up in the claim petition has been reiterated and allegations made in the written statement have been denied.

4. On the pleadings of the parties, following issues were framed on 21/12/2016 :-

- (i) Whether the complaint under Section 33-A of the ID Act is not maintainable and this Tribunal has no jurisdiction to try the matter as alleged ?
- (ii) Whether circular No.1/2016 dated 6/1/2016 is arbitrary and illegal as alleged ?
- (iii) Relief

5. The Claimant Union in support of its case examined Shri GA. Rudrappa, General Secretary as WW1 who tendered his affidavit Ex.WW1/A & relied on the documents Ex.WW1/1 to Ex.WW1/14, whereas Management examined one Shri Rajiv Duggal, Deputy General Manager (HR) who tendered his evidence by way of affidavit Ex.MW1/A alongwith authority letter Ex.MW1/1.

6. I have heard Shri K.K. Aggarwal, A/R for the workmen Union and Ms. Neha Bhatnagar, A/R for the Management and have gone through the records carefully. My findings on the above issues are as follows.

Issue No.1 and 2 :

7. Both these issues being inter-related are taken up together and the same can be disposed of by common discussion.

8. During the course of arguments, learned A/R for the workmen Union strenuously argued that the circular No. 1/2016 dated 6/1/2016 whereby working hours for General shift/non operational staff were increased by half an hour i.e. from 9.30 AM to 5.30 PM, to 9.30 AM to 6.00 PM., has been issued during pendency of similar dispute (bearing ID No. 39 of 2014) without prior approval of the Tribunal/Labour Court as required under Section 33(1)(a) of the Act and same has been done without any monetary benefits to the workmen, which caused prejudice to the interest of workers inclusive of members of Workmen Union. He also submitted that the Management has violated the provisions of Section 9-A of the Act for changing the existing service condition of the employees by increasing working hours and change in time, without giving notice to the workmen and the claimant Union. He placed reliance on the decision of Hon'ble Apex Court in the case of **Lokmat Newspapers P. Ltd. Vs. Shankar Prasad, 1999 II CLR 433**, to stress that a notice under Section 9-A of the Act was required to be issued by the employer, prior to the altering the service conditions of the workers.

9. Per contra, learned A/R for the Management argued that the present complaint under Section 33-A of the Act is not maintainable inasmuch as subject matter of the complaint in question and the pending reference are not connected and are all together different and independent of each other and therefore, the provisions of Section 33 of the Act are not attracted. He also contended that the working hours of the organization have been changed in accordance with law and after following the procedure and in accordance with powers conferred by Section 42 of Airport Authority of India Act, 1994 and Airport Authority of India (General Conditions of Service & Remuneration of Employees) Regulation, 2003 framed thereunder. As such, the present complaint under Section 33-A of the Act is not maintainable and same be dismissed.

10. At the outset I may mention that Section 33 of the Act clearly provides that during pendency of the proceedings either before the Conciliation Officer or Labour Court or Industrial Tribunal, no employer shall alter or change the conditions of service of the workman without written permission/approval from the authority before which such proceedings are pending. In case of contravention of the provisions of Section 33 by any employer, aggrieved employee has been given a right to make a complaint in writing under Section 33-A of the Act before the Authority before whom such proceedings were pending at the time of retrenchment/discharge etc. of the workman.

11. It is fairly settled that where Section 33 of the Act is contravened by the Management during the pendency of proceedings, any employee aggrieved by such contravention has a right to file a complaint against such contravention which is to be adjudicated as a dispute in accordance with the provisions of the Act. The Legislature in its wisdom has made Special Provision under Section 33-A of the Act, for adjudication as to whether conditions of service, etc. of the employees were changed during pendency of proceedings. Under Section 33(1)(a) of the Act, no employer is entitled to alter the conditions of service of the workers which are subject matter of the pending disputes. This Section, thus, provides protection to a workman, provided an industrial dispute is pending and alteration in the service condition is with regard to any matter connected with the dispute and such alteration is prejudicial to his interest. **For invoking violation**

of Section 33(1)(a) of the Act, what is to be considered is whether the particular matter in regard to which the complaint of alteration of service is made, is one which can be said to be connected with an industrial dispute which is already pending. It is only where the alteration effected by the employer and the dispute pending before the Tribunal is connected, then the said Section comes into play. If the alteration of conditions of service is not connected with the subject matter of the pending dispute, the workman would not be entitled to the protection of Section 33(1)(a) of the Act. To this view I am fortified by the decision of our own High Court in the case of **M/s Richa & Company Vs. Suresh Chand W.P. (C) No. 10744/2006** and other cases – decided on 12/9/2008).

12. It is worthwhile to mention here that as against a circular No.02 of 2012 dated 17/1/2012 regarding premature retirement of workers on attaining the age of 50 years, on the ground of inefficiency or doubtful integrity or on the ground of medical unfitness, issued by the Management, an industrial dispute bearing ID No.39 of 2014 by the workmen Union was raised, as the Govt. of India, Ministry of Labour vide order dated 19/2/2014 had referred the dispute for adjudication before this Tribunal and the terms of reference of the said dispute were as follows which is also evident from document Ex.MW1/W-3 :-

“Whether the action of the Management of Airports Authority of India in making compulsory retirement of employees on the basis of AAI circular No.02/2012 dated 17.1.2012 on premature retirement is legal ? If not, what relief the workmen are entitled to?”

It is, thus, evident that the term of reference of the dispute/s pending before the Tribunal was pertaining to premature retirement of workers on attaining the age of 50 years, on the ground of inefficiency or doubtful integrity or on the ground of medical unfitness. However, the alteration in conditions of service allegedly brought about by the Management vide circular dated 6/1/2016 (Ex. WW1/1) is about review/increase of working hours of the workmen, to be more precise that the working hours for non operational duties were changed from 9.30 AM to **5.30 PM**, to 9.30 AM to **6.00 PM**. To my mind, a change in work timings can not be said to be a matter connected with the pending disputes ID No.39 of 2014 which pertains to premature retirement of workers on attaining the age of 50 years, on the ground of inefficiency or doubtful integrity or on the ground of medical unfitness. As such, the present complaint under Section 33-A of the Act is not maintainable and liable to be dismissed.

12. There is another aspect of the matter. Section 33(2)(a) of the Act gives a right to the employer to alter the conditions of service of a workman, in regard to any matter not connected with the pending industrial dispute, which were applicable to him immediately before the commencement of the proceedings in respect of that industrial dispute, provided such alteration has been made in accordance with the standing orders applicable to the concerned workman or where there are no such standing orders, in accordance with the terms of contract whether express or implied, between the employer and the workman. The proviso that has been appended to Section 33(2) applies only to clause (b) of Section 33(2) of the Act and not to clause (a) thereof. So, if the alteration has been brought about in accordance with the standing orders or the terms of contract between the employer and the workman, **then no prior approval of the Tribunal is required.** Hon'ble Supreme Court in the case of **Lord Krishna Textile Mills Vs. its Workmen, AIR 1961 SC 860**, with respect of provisions of Section 33(2)(a) of the Act had held as under :-

“....It is obvious that in cases of alteration of conditions of service falling under Section 33(2)(a) no such approval is required and the right of the employer remains unaffected by any ban.”

In **Strawboard Mfg. Co. Vs. Gobind, LLJ Vol.II 1962** it was held that sub section 2(a) of Section 33 of the Act on the other hand, gives power to the employer to alter any conditions of service not connected with the dispute and this the employer can do without approaching at all the Tribunal where the disputes may be pending.

13. As mentioned above, alteration in conditions of service allegedly brought about by the Management vide circular dated 6/1/2016 (Ex. WW1/1) is relating to review/increase of working hours of the workmen and the same was not a matter connected with the pending disputes ID No.39 of 2014 relating to premature retirement of workers on attaining the age of 50 years, on the ground of inefficiency or doubtful integrity or on the ground of medical unfitness. Case of the Management is that working hours for non operational staff have been changed in accordance with law and after following the procedure and in accordance with powers conferred by Section 42 of Airport Authority of India Act, 1994 and Airport Authority of India (General Conditions of Service & Remuneration of Employees) Regulation, 2003 framed thereunder. Perusal of the record shows that WW1 G.A. Rudrappa, General Secretary of the Workmen Union has admitted that under Section 42(4) of Airport Authority of India Act, 1994, Airport Authority of India has got powers to frame regulations but he volunteered that for that prior approval of the Govt. is required. He also admitted that notification dated 23/5/2003 (Ex.MW1/W-1) was published in the Gazette.

14. It is fairly settled that Sub-Section 2(a) of Section 33 of the Act gives power to the employer to alter any conditions of service **not connected with the dispute and this the employer can do without approaching at all the Tribunal/Court where the dispute may be pending.**

15. It is, thus, apparent that the dispute (ID No. 39 of 2014) pending before the Tribunal pertaining to compulsory retirement at the age of 50 years on the ground of inefficiency or doubtful integrity or on the ground of medical unfitness, was not connected to dispute about review/increase of working hours.

16. Having regard to the ratio of aforesaid rulings and the facts of this case, this Tribunal has no hesitation to hold that there is no violation of Section 33(1)(a) of the Act as the subject matter involved regarding the working hours/timings of the workmen was/is different & distinct from the subject matter of pending dispute concerning compulsory retirement.

Therefore, the circular bearing No.1/2016 dated 6/1/2016 regarding review/increase of working hours of the non-operational staff can be held to be arbitrary or illegal. Consequently, both these issues are decided against the Workmen Union and in favour of the Management.

Relief :-

17. In view of my findings on issue No.1 and 2 above, it is held that the claimant/Workmen Union is not entitled to any relief and the claim petition is dismissed, however, with no orders as to costs. Award is passed accordingly.

Dated : 12/4/2019

AVTAR CHAND DOGRA, Presiding Officer

नई दिल्ली, 6 मई, 2019

का. आ. 750.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स श्री सीमेंट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय, अजमेर के पंचाट (संदर्भ संख्या 06/2017) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th May, 2019

S.O. 750.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 06/2017) of the Central Government Industrial Tribunal/Labour Court, Ajmer now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Shree Cement Limited and their workman, which was received by the Central Government on 03/05/2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

अनुबंध

श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर (राज0)
पीठासीन अधिकारी—श्री एस.एन. टेलर, आर.एच.जे.एस

प्रकरण संख्या सीआईटीआर नं. 06/2017

सी आई एस नं. 27/17

श्री अजयसिंह सिसोदिया पुत्र श्री गुमानसिंह सिसोदिया जाति राजपूत निवासी मु०पो० गोविंदगढ तहसील पीसांगन जिला अजमेर हाल निवासी शारदा स्कूल के पास, निम्बेटी रोड, मुकाम पोस्ट रास तहसील जैतारण जिला पाली (राज0)

—प्रार्थी

बनाम

- श्री पंकज अग्रवाल, महाप्रबंधक, श्री सीमेंट लिमिटेड, मार्इन्स रास, तहसील जैतारण जिला पाली,
- श्री मनोज मेहला, सीनियर वार्इस प्रेसीडेंट, श्री सीमेंट लिमिटेड, ईकाई रास तहसील जैतारण जिला पाली,
- श्री संजय मेहता, सीनियर वार्इस प्रेसीडेंट (पर्सनल), श्री सीमेंट लिमिटेड, बांगडनगर, व्यावर जिला अजमेर (राज0),
- श्री सुरेशचंद सुथार, सीनियर वार्इस प्रेसीडेंट, श्री सीमेंट लिमिटेड, बांगडनगर, व्यावर जिला अजमेर

—अप्रार्थीगण

उपस्थिति

प्रार्थी की ओर से : श्री एल एस राठौड़, अधिवक्ता
 अप्रार्थी की ओर से : श्री आर.के. जैन (अधिवक्ता) प्रतिनिधि

—: अवार्ड :—

दिनांक 18.3.2019

- प्रार्थी द्वारा अप्रार्थीगण के विरुद्ध अपना स्टेटमेंट ऑफ क्लेम अंतर्गत धारा 2 ए औद्योगिक विवाद अधिनियम 1947 दिनांक 10.7.2017 को प्रस्तुत कर उसमें अभिवचन किए गए है कि उसे पूर्व कार्यकारी निदेशक श्री एम के सिंधी श्री सीमेंट लिलोयूनिट-3, बांगड़ नगर, ब्यावर द्वारा दिनांक 28.10.2006 को दो वर्ष के लिए के लिए ट्रेनी ऑपरेटर के पद पर नियुक्ति प्रदान की गई। प्रार्थी को दिनांक 31.10.2007 को नियुक्ति पत्र दिया गया। दिनांक 01.05.2010 से कम्पनी प्रबंधन ने प्रार्थी की कम्पनी में टेक्नीशियन के पद पर नियुक्ति कनफर्म करते हुए कनफर्मेशन लेटर दिनांक 29.4.2008 को जारी किया गया तथा प्रार्थी का कार्यस्थल श्री सीमेंट लिमिटेड, ईकाई रास जिला पाली रखा गया। प्रार्थी को अच्छी परफोरमेंस के लिए बधाई पत्र भी दिया व माइनिंग मेट के लिए सर्टिफिकेट ऑफ कम्पीटेंस जारी किया गया किन्तु कार्य ऑपरेटर का लिया जाता था। प्रार्थी को कम्पनी में नियुक्ति के पश्चात लगातार 8 घण्टे व उससे एक्सेवेटर ऑपरेटर के रूप में कार्य करने से प्रार्थी को पाईल्स की गंभीर बीमारी हो गई। जिसका राजकीय आयुर्वेद चिकित्सालय, ब्यावर में ईलाज हुआ और आज भी ईलाजरत है। प्रार्थी द्वारा पे स्लीप में एडीशनल एस एफ ए तथा बोनस अंकित करते हुए भी भुगतान नहीं करने से प्रार्थी ने कम्पनी प्रबंधन से भुगतान की मांग की तो नाराज हो गए व प्रार्थी को सेवापृथक करने का मानस बना लिया एवं हरवक्त अनुचित परेशान किया जाने लगा। डम्पर का डाला उंचा करने, क्षमता से अधिक लदान करने, डम्पर का पुराने व जर्जर होने, श्रमिकों की जान जोखिम में डालने, जांच निजी डाक्टर से करवा रिपोर्ट श्रमिक को नहीं देने अदि सहित ज्वलंत मुददों पर प्रबंधन को अवगत करवाया गया किन्तु निवारण नहीं किया। कम्पनी प्रबंधन ने दिनांक 10.02.2016 से प्रार्थी का कम्पनी में कार्य पर आने जाने गेट बंद करवा दिया तथा दिनांक 09.03.2016 से प्रार्थी को बिना किसी पूर्व सूचना के मस्टर रोल से नाम काट सेवापृथक कर दिया एवं सेवापृथक्करण की सूचना प्रार्थी को नहीं दी व नोटिस बोर्ड पर चस्पा कर दी। सहकर्मियों से पता चला तथा यह भी जानकारी मिली कि प्रार्थी का स्थानान्तरण दुर्भावना से रायपुर (छत्तीसगढ़) सिस्टर कन्सर्न में कर दिया। प्रार्थी ने जानकारी होने पर सेवापृथक्करण व स्थानान्तरण पत्र की प्रबंधक से मांग की किन्तु नहीं दिए न ही कार्य पर उपस्थित होने दिया गया। अप्रार्थी कम्पनी में प्रार्थी का नियमित नियोजन है मगर औद्योगिक विवाद अधिनियम के आदेशात्मक प्रावधानों की पालना नहीं कर प्रार्थी को विधि विरुद्ध तरीके से सेवापृथक कर दिया। सेवापृथक करने से पूर्व ना तो उसके विरुद्ध जांच ही करवाई गई और ना ही स्पष्टीकरण मांगा और ना ही गवाह सबूत पेश करने का अवसर दिया। श्रमिक हितेश टांक की पारिवारिक परिस्थिति के कारण 47 दिन बाद स्थानान्तरण रद्द कर पूर्व कार्यस्थल पर वापस ले लिया। प्रार्थी ने सहायक श्रम आयुक्त, केन्द्रीय श्रम विभाग, अजमेर के समक्ष समझौता वार्ता हेतु विवाद प्रस्तुत किया। मगर अप्रार्थीगण के वहां पर जवाब नहीं देने और अनुपस्थित रहने पर केन्द्रीय श्रम आयुक्त, अजमेर ने प्रमाण पत्र जारी कर श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर के समक्ष प्रकरण दायर करने का सुझाव दिया। अंत में प्रार्थना की गई है कि नियमानुसार कार्यवाही की जावे।
- अप्रार्थीगण की ओर से उक्त क्लेम प्रार्थनापत्र का जवाब प्रस्तुत कर उसको मदवार अस्थीकार करते हुए अभिवचन किए है कि प्रार्थी श्री सीमेंट रास ईकाई एवं उससे संबंधित खान में कार्यरत रहा। उक्त ईकाई तहसील जैतारण जिला पाली में स्थित है जो कि जोधपुर डिवीजन के अधीन है। सुलह अधिकारी एवं सहायक श्रम आयुक्त, केन्द्रीय, अजमेर ने धारा 2-ए तहत उक्त विवाद को इस न्यायालय में प्रस्तुत करने की कानूनी भूल की है। उक्त विवाद पाली जिले से संबंधित होने से इस प्रकरण की सुनवाई बाबत क्षेत्राधिकार नहीं है। प्रार्थी द्वारा उठाये गए कथित विवाद जोधपुर में स्थित श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, जोधपुर द्वारा ही निर्णीत किया जा सकता है जहां उसका क्षेत्राधिकार है। केन्द्रीय सरकार द्वारा श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, जयपुर की स्थापना कई वर्षों पूर्व की जा चुकी है जिसे सम्पूर्ण राजस्थान का क्षेत्राधिकार है। अतः सुलह अधिकारी एवं सहायक श्रम आयुक्त, अजमेर द्वारा कथित विवाद को उक्त न्यायाधिकरण के सम्मुख ही भेजा जाना न्यायोचित है। कम्पनी की रायपुर ईकाई की अनुशंसा पर अप्रार्थी कम्पनी के रास ईकाई से संबंधित माईन्स में कार्यरत श्री अजयसिंह सिसोदिया, श्री शिवप्रसाद एवं श्री रणवीरसिंह गुर्जर को अप्रार्थी के कार्यालय आदेश दिनांक 06.02.2016 के जरिये तुरंत प्रभाव से रायपुर स्थानान्तरित कर दिया गया एवं रायपुर के अधिकारी को सूचित कर दिया। प्रार्थी द्वारा दिनांक 18.2.2016 को एक पत्र प्रेषित कर उसके उक्त स्थानान्तरण के तथ्यों को उल्लेखित कर पाईल्स की बीमारी होने से 15 मार्च तक डयूटी ज्वोइन नहीं कर पाने के कथन किए। साथ में रोगी उपचार पत्र भी प्रस्तुत किया जिस पर प्रार्थी के हस्ताक्षर नहीं थे। अप्रार्थी कम्पनी के रायपुर माईन्स के उक्त अधिकारी द्वारा दिनांक 17.03.2016 को रास स्थित माईन्स के वरिष्ठ महाप्रबंधक को एक पत्र लिखा गया जिसके द्वारा उन्होंने जानकारी दी कि जिन 3 व्यक्तियों को स्थानान्तरित किया गया था उसमें सिर्फ श्री रणवीरसिंह गुर्जर द्वारा ही स्थानान्तरित स्थान पर उपस्थिति दी गई। उक्त पत्र की प्राप्ति के पश्चात अप्रार्थी कम्पनी के पत्र दिनांक 23.03.2016 द्वारा प्रार्थी को सूचित किया गया कि उनके द्वारा स्थानान्तरित स्थान पर उपस्थिति नहीं दी गई तथा वे दिनांक 09.02.2016 से लगातार अनुपस्थित चल रहे हैं। उक्त पत्र द्वारा प्रार्थी को पुनः हिदायत दी गई कि वह 48 घण्टे के भीतर

रायपुर में उपस्थित दर्ज करायें एवं अनुपस्थिति के संबंध में उचित स्पष्टीकरण देवें। प्रार्थी द्वारा उक्त पत्र के बावजूद रायपुर स्थित ईकाई में उपस्थिति नहीं दी। अप्रार्थी द्वारा पत्र दिनांक 29.3.2016 से प्रार्थी को सूचित किया कि उसने उक्त पत्र दिनांक 23.3.2016 के बावजूद भी उपस्थिति नहीं दी है व वह बिना कारण के अनाधिकृत रूप से अनुपस्थित चल रहा है एवं जिसके चलते यह मान लिया गया कि वह कार्य करने को इच्छुक ही नहीं है। प्रार्थी द्वारा निश्चित समय सीमा में ही कार्य किया जाता रहा एवं जिस स्थान पर प्रार्थी कार्यरत था वहां सभी मशीनों में उनके चालकों के लिए आरामदायक वातानुकूलित केबिन थे, जिससे कि मशीन चालक पूर्ण सुरक्षित व स्वस्थ वातावरण में कार्य करते थे। साथ ही समय समय पर संबंधित कर्मचारियों के स्वास्थ्य का परीक्षण अप्रार्थी द्वारा अपने चिकित्सा अधिकारी द्वारा सुनिश्चित किया हुआ था एवं माईन्स के नियमों के अनुसार माईन्स में कार्यरत सभी श्रमिकों का मेडिकल (गहन चिकित्सा परीक्षण) कराया जाता है। जिसे डायरेक्टर जनरल ॲफ माइन्स सेफ्टी के द्वारा अवलोकन/जांच किया जाता है। अप्रार्थी के माइन्स में करीब 455 व्यक्ति नियोजित हैं जिसमें लगभग 108 डम्पर ऑपरेटर के पद पर कार्यरत हैं। पाईल्स कोई ऐसी बीमारी नहीं है जो कि माईन्स में कार्य करने से होती हो। प्रार्थी द्वारा पहली बार अपने पत्र दिनांक 18.2.2016 द्वारा यह जाहिर किया गया कि उसे कथित रूप से पाईल्स की बीमारी है। इससे पूर्व उसके द्वार कभी भी उक्त प्रकार की शिकायत कार्यरत रहते हुए नहीं की गई। प्रार्थी द्वारा उसके स्थानान्तरण के पश्चात ही पाईल्स की कथित बीमारी की कहानी गढ़ी गई है। बोनस का भुगतान, बोनस अधिनियम के अनुसार बराबर किया जाता रहा है एवं एस एफ ए, वेतन के साथ प्रतिमाह दिया जाता है जिसे प्रार्थी द्वारा अपने सम्पूर्ण कार्यकाल के दौरान बिना किसी उजर एवं एतराज के प्राप्त किया जाता रहा है। खदान में परिवहन हेतु प्रयुक्त किए जाने डम्परों में डम्पर उत्पादन कम्पनी द्वारा निर्धारित वजन भराव क्षमता 60 टन से अधिक वजह नहीं भरा जाता है। चूंकि लाइमस्टोन का अपेक्षित घनत्व कम है अतः डम्पर में लाइमस्टोन भरते समय तथा परिवहन के दौरान मार्ग पर लाइमस्टोन भरते समय तथा परिवहन के दौरान मार्ग पर लाइमस्टोन का बिखराव ना हो इसके लिए डम्पर के डाले के दोनों तरफ 6-6 इंच की प्लेट लगा दी गई है। लाइमस्टोन के बिखराव होने से संभावित खतरों को समाप्त करने के लिए प्राय ऐसा किया जाता है ताकि मार्ग में बिखरे लाइमस्टोन की वजह से कोई हादसा ना हो। प्रार्थी के कार्यकाल के दौरान कोई ऐसी घटना उक्त संबंध नहीं घटी। इस संबंध में डम्पर की कम्पनी KOMATSU द्वारा दिनांक 27.5.2013 को एक पत्र भी जारी किया गया जिसके आधार पर अप्रार्थी कम्पनी ने डायरेक्टर ॲफ माइन्स सेफ्टी को सूचित किया। प्रार्थी के स्थानान्तरण की जानकारी प्रार्थी स्वयं को थी परन्तु जानबुझकर दिनांक 9.2.2016 से अनाधिकृत रूप से अनुपस्थित रहने लगा जिसके संबंध में समय समय पर प्रार्थी को सूचना दी गई। अप्रार्थी द्वारा औद्योगिक विवाद अधिनियम की किसी भी धारा का उल्लंघन नहीं किया गया है। प्रार्थी द्वारा यह कही भी कथन नहीं किया गया है कि उसके द्वारा भी स्थानान्तरण रद्द कराने बाबत कोई कार्यवाही की गई बल्कि प्रार्थी द्वारा जानबुझकर बीमारी की आड लेकर स्थानान्तरित जगह पर ज्वोइनिंग नहीं दी गई जिसके लिए स्वयं प्रार्थी जिम्मेदार है। सहायक श्रम आयुक्त के समक्ष अप्रार्थी द्वारा अपने पत्र दिनांक 20.7.2016 के जरिये विस्तृत टिप्पणी प्रस्तुत की गई थी। जिस पर गौर किए बिना ही उक्त अधिकारी द्वारा प्रमाण पत्र जारी कर दिया गया एवं उसका संज्ञान माननीय न्यायालय द्वारा नहीं लिया जा सकता है। अंत में उनके द्वारा सुलह अधिकारी एवं सहायक श्रम आयुक्त, अजमेर द्वारा औद्योगिक विवाद अधिनियम 1947 की धारा 2-ए के तहत जारी प्रमाण पत्र दिनांक 21.9.2018 पर कोई कार्यवाही करने का क्षेत्राधिकार नहीं होने एवं प्रार्थी भी राहत को पाने का अधिकारी नहीं होने का कथन करते हुए स्टेटमेंट ॲफ क्लेम खारिज किए जाने की प्रार्थना की है।

3. उभय पक्षकारान के अभिवचनों एवं उपलब्ध सामग्री के मध्य नजर दिनांक 10.01.2016 को न्यायालय द्वारा निम्नांकित विवाद बिन्दु विरचित किए गए:—

1. आया प्रार्थी को अप्रार्थी संस्थान द्वारा दिनांक 9.3.2016 को बिना किसी सूचना के मस्टररोल से नाम काटकर विधिक प्रावधानों के उल्लंघन में सेवापृथक कर दिया गया?
2. आया कि हस्तगत प्रकरण को इस अधिकरण को क्षेत्राधिकार नहीं है?
3. अनुतोष?
4. प्रार्थी ने अपनी मौखिक साक्ष्य में ए डब.1 अजयसिंह सिसोदिया स्वयं को परीक्षित करवाया एवं प्रलेखीय साक्ष्य में प्रदर्श डब.1 लगायत डब.22 दस्तावेज प्रदर्शित करवाए गए हैं। अप्रार्थीगण ने अपनी मौखिक साक्ष्य में एन ए डब.1 पंकज अग्रवाल, एन ए डब.2 के सी शर्मा, एन ए डब.3 पुष्पेंद्र कुमार भारद्वाज को परीक्षित करवाया जाकर प्रलेखीय साक्ष्य में प्रदर्श एम-1 लगायत एम-5 एवं प्रदर्श एम-10 लगायत एम-12 दस्तावेज प्रदर्शित करवाये गये हैं।
5. बहस अंतिम सुनी गयी। प्रार्थी की ओर से उसके स्टेटमेंट ॲफ क्लेम के दोहराव के साथ तर्क रहे हैं कि प्रार्थी से विपरीत परिस्थितियों में कार्य लिया जाता था जिन विपरीत परिस्थितियों को अप्रार्थी संस्थान की जानकारी में मौखिक तौर पर कई बार लाया किंतु अप्रार्थी संस्थान द्वारा कोई कार्यवाही नहीं की गयी। अप्रार्थी संस्थान के अधिकारी प्रार्थी से दुर्भावना रखने लगे और प्रार्थी का तथाकथित ट्रांसफर अप्रार्थी संस्थान द्वारा अपने कागजों में ही कर दिया गया जबकि ऐसा कोई स्थानान्तरण पत्र अथवा आदेश प्रार्थी को न तो दिया गया न ही सूचना दी गयी जो अप्रार्थी संस्थान की दुर्भावना को स्पष्ट रूप से प्रकट करता है। प्रार्थी के स्थानान्तरण की कार्यवाही दुर्भावना पूर्वक रही है। प्रार्थी ने डायरेक्टर जनरल ॲफ माइन्स सेफ्टी को भी विपरीत परिस्थितियों की शिकायत की थी जिस कारण अप्रार्थी संस्थान के विरुद्ध जांच हुई जिसकी जांच रिपोर्ट पत्रावली पर है। स्थानान्तरण की सूचना प्रार्थी को किसी तरीके से नहीं दी गयी न ही यह ट्रांसफर ऑर्डर लगाता है इसका मोड ॲफ डिलीवरी क्या है यह स्पष्ट नहीं है। इसकी कोई रसीद पावती या डाक रसीद भी नहीं है। प्रार्थी के सेवा पृथक्करण से

पहले प्रार्थी से कोई स्पष्टीकरण नहीं लिया गया । वार्निंग पत्र की रसीद या पावती भी पत्रावली पर नहीं है । इसकी दिनांक से लेकर दो दिन तक सरकारी छुट्टी थी । डाक जारी ही नहीं हो सकती थी फिर भी इसमें अडतालीस घंटे का ही टाईम अंकित है । सेवामुक्त आदेश में प्रार्थी को दि. 9.3.16 से अनुपस्थित बताया है जबकि किसी अन्य दस्तावेज में ऐसा नहीं है अनुपस्थिति के बारे में कोई चार्जशीट दिया जाना या प्रार्थी से काई स्पष्टीकरण चाहना भी कहीं प्रकट नहीं होता है । प्रार्थी बीमार रहा था इस संबंध में प्रार्थी ने पत्रावली पर प्रचूर मात्रा में दस्तावेज पेश किये हैं जिनका किसी तरह से खंडन नहीं है । प्रार्थी ने छुट्टी का प्रार्थना पत्र भी दिया था जो स्वयं अप्रार्थीगणों का स्वीकृत तथ्य है । बीमारी के दस्तावेज भी पत्रावली पर है । अप्रार्थीगण की साक्षियों ने प्रार्थी की सेवा पृथक्करण से पूर्व नोटिस जांच आदि की भी जानकारी नहीं होना दर्ज करवाया है अधिकतर साक्ष्य में उच्छोनें जानकारी नहीं होना दर्ज करवाया है जिससे स्पष्ट है कि वे सही साक्ष्य न्यायालय में नहीं देना चाहते थे तथा उनकी साक्ष्य विश्वसनीय नहीं है । प्रार्थी से बी ई एम एल डंपर पर कार्य लिया जाता था जिसकी कैपेसिटी पचास टन थी फिर भी उसमें पैसर टन माल लदवाया जाता था । जिस बाबत पत्रावली पर साक्ष्य उपलब्ध है । अप्रार्थी साक्षी एन ए डब.2 के सी शर्मा अप्रार्थी संस्थान की किसी तरह से मदद नहीं करता है । अप्रार्थी साक्षी एन ए डब.3 पुर्षेंद्र भारद्वाज ने प्रार्थी द्वारा रखे गये तथ्यों में ही अधिकतर को स्वीकार किया है । अप्रार्थी साक्षी प्रार्थी को आरोप पत्र दिये जाने व प्रार्थी से स्पष्टीकरण चाहने के संबंध में भी मना करते हैं । प्रार्थी के मामले में अप्रार्थी संस्थान द्वारा धारा 25 एक की पलाना नहीं की गयी है क्योंकि न तो प्रार्थी को नोटिस दिया गया न ही कोई रिट्रैंचमेंट भत्ता दिया गया प्रार्थी से कोई स्पष्टीकरण इत्यादि भी नहीं लिया गया न जांच की गयी अप्रार्थीगण द्वारा प्रार्थी की की गयी सेवामुक्ति गलत व अवैध है तथा प्रार्थी पूर्ण वेतन परिलाभ सहित सेवा में पुनर्स्थापना का अधिकारी है । सेवामुक्ति अवैध होने के कारण प्रार्थी स्वतः ही बेक वेजेज प्राप्ति का अधिकारी है क्योंकि अप्रार्थीगण यह सिद्ध नहीं कर पाए हैं कि प्रार्थी गेनफूल एम्प्लॉयमेंट में था जिसका कि भार अप्रार्थीगण पर ही था । अप्रार्थीगण की कोई साक्ष्य माने जाने योग्य क्षेत्राधिकार के संबंध में नहीं है । क्षेत्राधिकार के संबंध में अप्रार्थीगण की ओर से अंतिम स्टेज पर उठाए गए एतराज स्वीकार योग्य नहीं है । विपक्षी कम्पनी व्यावर में स्थित होने तथा उसका मुख्यालय व्यावर में स्थित होने तथा प्रार्थी की नियुक्ति व टर्मिनेशन आदेश व्यावर से जारी होने तथा समझौता वार्ता अजमेर में ही होने तथा धारा 2-ए औद्योगिक विवाद अधिनियम 1947 का प्रमाण पत्र भी इस न्यायालय के बारे में ही जारी होने तथा श्रमिक नियोजक का संबंध भी व्यावर में ही उत्पन्न होने के आधार पर इस न्यायालय को हस्तगत प्रकरण बाबत क्षेत्राधिकार होना बताते हुए केवल पाली में खान होने एवं प्रार्थी के कार्य करने के आधार पर ही इस न्यायालय का क्षेत्राधिकार नहीं होना माने जाने योग्य नहीं होने के तर्क दिए गए हैं तथा अंत में प्रार्थी का स्टेटमेंट ऑफ क्लेम स्वीकार किया जाते हुए उक्त अनुतोष दिये जाने की प्रार्थना की गयी है । उनके द्वारा अपने तर्कों के समर्थन में निम्नांकित न्यायिक दृष्टांत भी पेश किए गए हैं:—

1. माननीय सर्वोच्च न्यायालय द्वारा सिविल अपील संख्या 1756/2010 आरएसआरटीसी जयपुर बनाम फूलचंद मृतक जरिये विधिक प्रतिनिधि में पारित रिपोर्टबल निर्णय दिनांक 20.9.2018
2. एआईआर 1979, एस सी 75, हिन्दुस्तान टिन वर्क्स प्रा०लि० बनाम एम्प्लॉयिज ॲफ हिन्दुस्तान टिन वर्क्स,
3. माननीय सर्वोच्च न्यायालय द्वारा सिविल अपील संख्या 346/2015 जशमेर सिंह बनाम स्टेट ॲफ हरियाणा में पारित नोन-रिपोर्टबल निर्णय दिनांक 13.1.2015,
4. माननीय सर्वोच्च न्यायालय द्वारा सिविल अपील संख्या 4160/2008 पी करूपैया मृतक जरिये विधिक प्रतिनिधि बनाम दि जनरल मैनेजर तिरुवेलुवर ट्रांसपोर्ट कॉर्पोरेशन लिमिटेड में पारित रिपोर्टबल निर्णय दिनांक 12.10.2017,
5. माननीय सर्वोच्च न्यायालय द्वारा सिविल अपील संख्या 6767/2013 दीपाली गुण्डु सर्वेश बनाम कांति जूनियर अध्यापक महाविद्यालय व अन्य में पारित रिपोर्टबल निर्णय दिनांक 12.08.2013
6. खंडन में विद्वान अधिवक्ता प्रतिनिधि अप्रार्थीगण के तर्क रहे हैं कि प्रार्थी की नियुक्ति व उसके पश्चात् उसका निष्पेटी माइन में कार्य करना निविवाद है तथा इस तथ्य को प्रार्थी द्वारा अपनी जिरह में भी स्वीकार किया गया है कि वह रास जिला पाली में उक्त माइन में ही काम करता था । क्षेत्राधिकार के बिन्दु पर अप्रार्थी साक्षियों की मुख्य परीक्षा की साक्ष्य पर प्रार्थी की ओर से कोई जिरह नहीं है । प्रार्थी के अभिवचनों व साक्ष्य में भारी विरोधाभास है । सारी कहानी प्रार्थी ने स्थानान्तरण के बाद में झूंठी गढ़ी है । लाइम स्टोन हल्का पत्थर होता है जिसको गिरने से बचाने के लिए डंपर का डाला प्लेट लगाकर उंचा किया जाता है तथा यह किसी नियमों का उल्लंघन नहीं है । डायरेक्टर जनरल ॲफ माइंस सेफ्टी द्वारा जांच करके जो सूचना अप्रार्थी संस्थान को दी गयी थी इस संबंध में अप्रार्थी संस्थान द्वारा अपना स्पष्टीकरण प्रस्तुत कर दिया गया था यदि अप्रार्थी ने इससे संबंधित किसी नियमों की अवहेलना की है तो वह नियमानुसार कार्यवाही का अधिकारी है । किंतु हस्तगत प्रकरण में प्रार्थी इसका कोई फायदा नहीं ले सकता है । जब प्रार्थी बीमार स्वयं को बताता है तो फिर उसके आने व उसके लिए गेट बंद होने का प्रश्न ही पैदा नहीं होता है । प्रार्थी के अलावा कोई व्यक्ति बीमार हुआ हो या उसकी बीमारी हुई हो ऐसे न तो प्रार्थी के कोई अभिवचन है न ही काई नाम मात्र की साक्ष्य पत्रावली पर है । जबकि प्रार्थी के साथ कई व्यक्तियों का कार्य करना स्वयं प्रार्थी का स्वीकृत तथ्य है । प्रार्थी के पाइल्स होना किसी भी प्रकार से उसके कार्य से संबंधित नहीं है या उक्त बीमारी उक्त कार्य के कारण हुई हो, इस बात की भी पत्रावली पर लेश मात्र भी साक्ष्य नहीं है । प्रार्थी के नियुक्ति पत्र के मद नं.3 अनुसार प्रार्थी का जॉब ट्रांसफरेबल था और ट्रांसफर अप्रार्थी मैनेजमेंट का इनहरेट राईट है । इसमें न तो कोई दुर्भावना थी और न ही किसी प्रकार से प्रार्थी सिद्ध कर पाया है । प्रार्थी की बीमारी के दस्तावेजों पर भी प्रार्थी के हस्ताक्षर नहीं है । जिस कारण से उक्त दस्तावेज न तो विश्वसनीय

है न ही प्रार्थी की कोई मदद करते हैं। प्रदर्श एम-1 प्रार्थना पत्र प्रार्थी को स्वयं प्रार्थी द्वारा रिलाई किया गया है जिसमें प्रार्थी को स्थानान्तरण की जानकारी होना उल्लेखित है क्योंकि इसमें उसने नये स्थान पर ज्योइन करने के लिए बीमारी के कारण समय चाहा है वह यह नहीं कह सकता है कि उसे स्थानान्तरण की जानकारी नहीं थी। अप्रार्थी साक्षियों द्वारा मात्र जानकारी नहीं होने बाबत दिये गये कथनों के आधार पर उक्त तथ्यों को सिद्ध नहीं माना जा सकता है। डीजीएमएस की जांच रिपोर्ट में ऐसा नहीं लिखा हुआ है कि ये प्रार्थी की शिकायत पर आधारित है। इस संबंध में जवाब अप्रार्थी संस्थान द्वारा दे दिया गया कि जिस पश्चात् कोई कार्यवाही डी जी एम एस द्वारा अप्रार्थी संस्थान के विरुद्ध नहीं की गयी। प्रार्थी के अकेले का स्थानान्तरण नहीं किया गया था। तीन व्यक्तियों का स्थानान्तरण किया गया था। यह दुभारी कतई नहीं हो सकता है। जानकारी होने के बाद भी प्रार्थी द्वारा स्थानान्तरित स्थान पर कार्य पर उपस्थित नहीं होकर लगातार अनुपस्थित रहना उसके द्वारा सेवा का अभियजन माने जाने योग्य है और इस तरह प्रार्थी द्वारा वस्तुतः सेवा का अभियजन किया गया है। आई डी एक्ट की धारा 25 एफ प्रकरण में लागू नहीं होती है। उक्त परिस्थिति में किसी प्रकार की जांच आवश्यक नहीं थी और इस कारण प्रार्थी की सेवा मुक्ति अवैध नहीं ठहरायी जा सकती है। प्रार्थी सेवामुक्ति के पश्चात् गेनफुल एंपलॉयमेंट में नहीं हो, ऐसी प्रार्थी की प्लीडिंग भी नहीं है न ही इसकी कोई साक्ष्य है। उक्त अभिवचन करके प्रारंभिक तौर पर सिद्ध करने का जिम्मा भी प्रार्थी पर ही था। प्रार्थी द्वारा तो अपने स्टेटमेंट ऑफ क्लेम में अनुतोष ही वर्णित नहीं किया गया है। प्रार्थी किसी प्रकार के अनुतोष का अधिकारी नहीं है। इस श्रम न्यायालय को केवल अजमेर जिले में उत्पन्न औद्योगिक विवाद का ही क्षेत्राधिकार दिया गया है। स्वीकृत तौर पर प्रार्थी पाली जिले के रास स्थान पर स्थित खान में ही कार्यरत रहा है। जिस क्षेत्र का इस न्यायालय में विवाद उठाने बाबत दी गई राय नलिटी है। उठाया गया विवाद किसी भी प्रकार से इस न्यायालय में चलने योग्य नहीं है। अंत में प्रार्थी का क्लेम प्रार्थना पत्र खारिज किये जाने की गयी है। अपने तर्कों के समर्थन में निम्नलिखित न्यायिक दृष्टांत पेश किये गये हैं:—

1. 2004 एल एल आर 1103 केंद्रीय विद्यालय संगठन बनाम दामोदर प्रसाद पांडे व अन्य,
2. 2007 एल एल आर 390 श्याम सुंदर अग्रवाल बनाम मैरो ग्लोब डिटैक्टिव एजेंसी प्रा० लि० व अन्य,
3. (1999) 1 सुप्रीम कोर्ट केसेज 300 सिपला लि० बनाम जयकुमार आर व अन्य,
4. 2001 एलएल आर 548 स्टेट बैंक ऑफ इंडिया बनाम अंजायन सान्याल,
5. 2015 एल एल आर 169 कांपीटेंट सिक्युरिटी सर्विसेज बनाम गवर्नमेंट ऑफ एन सी टी ऑफ देहली व अन्य,
6. 2018 एल एल आर 933 विलास गनपति पाटिल बनाम सुयोग बैकवेल वसंतदादा औद्योगिक वसाहत, सांगली व अन्य,
7. 2001 (2) सुप्रीम कोर्ट केसेज 289 एडीसन्‌स पेंट्स एंड कोमिकल्स लि० बनाम वर्कमैन प्रिंजेटेड बाइ दी सैकेट्री (ए पी एंड सी) असिस्टेंट्स ऐसोसिएशन व अन्य,
8. 2018 एल एल आर 752 करुनाकरण बनाम भारती इलेक्ट्रोनिक्स लि० रिप्र.बाई इट्स चेयरमैन कम मैनेजिंग डायरेक्टर व अन्य,
9. 2018 (2) सुप्रीम कोर्ट केसेज (एल एंड एस) 395 पी करूपैया मृतक थू लीगल प्रिंजेटेटिव बनाम जनरल मैनेजर थिरुवल्लूवर द्रांसपोर्ट कारपोरेशन लि०,
10. 2016 एल एल आर 1244 इंजीरियर इन चीफ वाटर रिसोर्सेज डिपार्टमेंट भोपाल बनाम मानहरण,
11. 2005 एल एल आर 275 केंद्रीय विद्यालय संगठन व अन्य बनाम एस सी शर्मा,
12. 2006 एल एल आर 214 यू पी स्टेट ब्रासवेयर कारपोरेशन लि० व अन्य बनाम उदय नारायण पांडे,
13. 2018 एल एल आर 727 एच पी स्टेट कॉप.मार्केटिंग एंड कंजूमर्स फेडरेशन लि० बनाम नैनसुख,
14. 2015 एल एल आर 160 भावनगर म्युनिसिपल कारपोरेशन व अन्य बनाम जडेजा गोवुभा छानुभा व अन्य।
15. 2002 (2) एलएलएन, 306 मैनेजमेंट आफ बेर्स्ट एण्ड काम्पटन इंजिंरिंग लि० बनमा पी.ओ.1 एडीशनल लेबर कोर्ट,
16. मनु/एस.सी./0237/1967 वर्कमैन ऑफ श्री रंगविलास मोटर्स प्रा०लि० व अन्य बनाम श्री रंगविलास मोटर्स प्रा०लि०,
17. मनु/एम.पी./223/2012 एच पी मेडिकल एण्ड सेल्स रिप्रिजेटेटिव एसोसियेशन व अन्य बनाम सीनियर जनरल मैनेजर, केमेलिन लि०
18. मनु/कै.ए./3483/2018 दि मैनेजमेंट ऑफ हेवलेट पेक्यार्ड इण्डिया सेल्स प्रा० बनाम दि सेकेटरी, मिनिस्ट्री ऑफ लेबर, गवर्नमेंट ऑफ कर्नाटक,
19. मनु/डीई/3081/2015 शेलेन्ड्र कुमार बनाम दि सेकेटरी (लेबर) व अन्य
7. उभय पक्षकारान की ओर से दिए तर्कों तथा उभय पक्षों की ओर से प्रस्तुत न्यायिक दृष्टांतों के अभिमतों तथा संबंधित विधि को विचार में लेते हुए पत्रावली का भली भांति परिशीलन किया गया।

8. उभय पक्षों की ओर से प्रस्तुत मौखिक एवं दस्तावेजी साक्ष्य का सुक्ष्म विश्लेषण एवं परिशीलन से स्पष्ट है कि प्रार्थी साक्षी ए डब.1 अजयसिंह सिसोदिया द्वारा अपनी मुख्य परीक्षा के शपथ पत्र में अपने अभिवचनानुसार ही तथ्य दर्ज करवाये गये हैं। इस साक्षी द्वारा अपनी साक्ष्य में प्रदर्शित प्रदर्श डब.1 शिकायत पत्र अन्तर्गत धारा 12 औधोगिक विवाद अधिनियम 1947 की प्रति है। प्रदर्श डब्ल्यू-2 सहायक श्रम आयुक्त (केन्द्रीय), अजमेर का पत्र दिनांक 21.9.2016 एवं उसके साथ पत्रानुसार प्रदर्श डब्ल्यू-3 औधोगिक विवाद अधिनियम (संशोधन) 2010 की धारा 2-ए (2) के तहत जारी प्रमाण पत्र है जिसमें प्रार्थी को इस न्यायालय में पहुंचने को समर्थ किए जाने के उद्देश्य से जारी किया जाना वर्णित है। प्रदर्श डब्ल्यू-4 उसको ट्रेनिंग ऑपरेटर पर अप्रार्थीगण के संस्थान श्री सीमेंट लिंग द्वारा रखे जाने का ऑफर लैटर दि. 28.10.06 की प्रति है। प्रदर्श डब.5 उसके नियुक्ति पत्र दि. 31.10.2007 की प्रति है। जिसमें उसकी ट्रेनिंग पूरी होने पर उसे टैक्नीशियन (माइंस) के तौर पर प्रोबेशन पर नियुक्त किया गया है जिस नियुक्ति पत्र के मद नं.3 में वर्णित शर्त में उसका एक विभाग से दूसरे विभाग में, एक यूनिट से दूसरी यूनिट में, एक साइट से दूसरी साइट में, एक स्थान से दूसरे स्थान की होल्डिंग कंपनी या ऐसासिएट कंपनी या सिस्टर कंसर्न में तबादला किये जाने की शर्त उल्लिखित है। प्रदर्श डब.6 प्रार्थी को कनफर्म किए जाने का पत्र दिनांक 29.4.2008 है। प्रदर्श डब्ल्यू-7 फार्म ऑफ अपाइंटमेंट आफ कांपीटेंट पर्सन की दिनांक 15.12.2014 की प्रति है जिसमें प्रार्थी को निंबेटी लाइम स्टोन माइंस में नियुक्त किया जाना वर्णित है। प्रदर्श डब.8 प्रार्थी की सेलेरी के ब्यौरे का प्रिंटाइट है। प्रदर्श डब्ल्यू-10 व डब्ल्यू-11 श्री चांदमल मोदी राजकीय आयुर्वेद चिकित्सालय, ब्यावर की रोग पर्विया दिनांक 22.3.2016 एवं 7.3.2016 की प्रति है जिनमें उसके रक्तार्श की बीमारी बताई गई है। प्रदर्श डब्ल्यू-12 खान सुरक्षा निदेशक उत्तरी अंचल, गाजियाबाद का पत्र दिनांक 10.6.2016 जिसमें अप्रार्थी पक्ष द्वारा डम्पर की बॉडी की उंचाई बढ़ाकर रेगुलेशन 106 तथा ओ फार्म में चिकित्सा प्रमाण पत्र की प्रति सम्बन्धित व्यक्ति को जारी नहीं कर नियम 29-एफ एवं ओवरटाइम वेजेज की बजाय कम्प्लसरी डे ऑफ रेस्ट दिया जाकर तथा धारा 33 अनुसार आई फार्म में रजिस्टर्ड मैटेन नहीं किया जाने के कारण नियम 59 का उल्लंघन होना पाया जाना अप्रार्थी पक्ष को लिखा गया है। प्रदर्श डब्ल्यू-13 व 14 फोटोओं की फोटो स्टेट है। प्रदर्श डब्ल्यू-15 बी एच 50 एम रियर डम्पर की बुकलेट की प्रति है। प्रदर्श डब्ल्यू-16 हितेश टांक को अप्रार्थी संख्या-4 द्वारा लिखा गया पत्र दिनांक 10.8.2016 है जिसमें उसका स्थानान्तरण स्थगित किया जाना वर्णित है। प्रदर्श डब्ल्यू-17 अप्रार्थी द्वारा प्रार्थी की शिकायत पर समझौता अधिकारी के समक्ष किया गया एतराज है। उक्त साक्षी ए डब.1 अजयसिंह सिसोदिया द्वारा अपनी जिरह में साक्ष्य दी गयी है कि 2008 से 2016 तक रास में जहां रहता था उस पते से मैंने कम्पनी को सूचित कर दिया था। पते की माईंस आफिस में एप्लीकेशन दी थी। एप्लीकेशन की प्रति रिकार्ड पर पेश नहीं की है। यह बात सही है कि नियुक्ति के बाद लिम्बेटी माईंस में ही काम किया था परन्तु नियुक्ति के बाद 1 दिन ब्यावर श्रीसीमेंट में काम किया था। ब्यावर श्रीसीमेंट में एक दिन जो काम करना बताता हूं उस दिन केवल ज्योइन ही किया था कार्य नहीं किया था। यह बात सही है कि ज्योइनिंग के बाद जब तक सेवाओं से नहीं हटाया था मैं लिम्बेटी माईंस रास में ही काम करता था। लिम्बेटी माईंस पाली जिले में स्थित है रास जिला भी पाली जिले में ही स्थित है। मैं एक्सकेवेटर चलाता था। एक्सकेवेटर मशीन ए.सी. होती है। शपथपत्र की मद संख्या-5 में अंकित प्रबंधन के खिलाफ शिकायतों बाबत मैंने कभी भी लिखित में शिकायत नहीं दी थी। यह बात सही है कि मेरे ड्रांसफर के बाद मैंने प्रदर्श एम-1 प्रबंधक को भेजा था कि मैं नहीं जा सकता। प्रदर्श एम-1 पेश करने के 2 वर्ष पूर्व से ही पाईल्स की बीमारी रही हो तो ऐसा कोई प्रमाण मैंने रिकार्ड पर पेश नहीं किया है। मेरा स्थानान्तरण रायपुर, छत्तीसगढ़ करा गया था उसकी सूचना टेलिफोन से मिली थी। प्रदर्श डब्ल्यू-5 मेरा नियुक्ति पत्र है जिसकी मद संख्या-3 में अंकित तथ्य सही है जिस पर मार्क ए से बी डाला गया है। पूर्ण स्वरथ होने बाबत मैंने सूचना साधारण डाक से प्रबंधन को भेजी थी। उसका कोई प्रमाण पेश नहीं किया है। यह सही है कि मुझे एस एफ ए अलाउंस जब तक मैं कार्यरत था मुझे मिलता था। शपथपत्र की मद संख्या-8 में अनियमितताओं के संबंध में कोई शिकायत प्रबंधन से लिखित में नहीं करी थी न ही किसी दुर्घटना बाबत सूचित किया था। मुझे स्थानान्तरण की सूचना के बाद स्वरथ होने के बाद स्वरथ होने में 2 महिने का समय लगा था।
9. अप्रार्थी साक्षी एन ए डब.1 पंकज अग्रवाल द्वारा अपनी मुख्य परीक्षा के शपथ पत्र में स्वयं का तेहस वर्ष से अप्रार्थी संस्थान में कार्यरत रह कर वर्ष 2008 से 2016 तक के दौरान कंपनी के निंबेटी माईंस मैनेजर के पद पर कार्यरत होना बताकर अप्रार्थीगण के अभिवचनानुसार ही साक्ष्य दी गयी है। इस साक्षी द्वारा अपनी साक्ष्य में प्रदर्शित प्रदर्श एम-1 प्रार्थी के पत्र दिनांक 18.2.2016 की प्रति है जिसमें उसने दिनांक 6.2.2012 को उसका स्थानान्तरण रायपुर कर दिए जाने पर उसके 8-10 से पाईल्स की बीमारी से उसका ज्यादा ग्रस्त होना तथा डाक्टर परामर्श से बेड रेस्ट को मजबूर होना व दिनांक 15 मार्च तक डयूटी ज्योइन नहीं कर पाना एवं स्वरथ होते ही कम्पनी को सूचना देना वर्णित किया है। प्रदर्श एम-2 दिनांक 12.2.2016 का रोगी उपचार पत्र राजकीय चिकित्सालय रास का है जिसमें उसके ब्लैडिंग बताई गई है। प्रदर्श एम-3 असिस्टेंट जनरल मैनेजर माईंस के सी शर्मा एन ए डब.2 द्वारा एन ए डब.1 पंकज अग्रवाल को लिखे गये पत्र दि. 20.1.16 की प्रति है जिसमें एक शॉवल ऑपरेटर व दो डंपर ऑपरेट की रायपुर में आवश्यकता बतायी गयी है। प्रदर्श एम-4 इंटर ऑफिस मीमो है जिसमें प्रार्थी सहित कुल तीन ऑपरेटर्स के ड्रांसफर बाबत सूचना एन ए डब.1 पंकज अग्रवाल द्वारा एन ए डब.2 के सी शर्मा को दी गयी है। प्रदर्श एम-5 एन ए डब.2 के सी शर्मा द्वारा एन ए डब.1 पंकज शर्मा को लिखे गये पत्र दि. 17.3.16 की प्रति है जिसमें रणवीरसिंह के अलावा प्रार्थी सहित दो स्थानान्तरित व्यक्तियों का रिपोर्ट नहीं किया जाना वर्णित किया गया है। इस साक्षी को जिरह की साक्ष्य के दौरान प्रार्थी की ओर से प्रदर्श डब्ल्यू-18 लगायत 21 दिखाकर भी प्रश्न किए गए हैं जिनमें से प्रदर्श डब्ल्यू-18 अप्रार्थी पक्ष के आथोराइज्ड सिस्टेम का पत्र है जिसमें प्रार्थी की चिकित्सीय आधार पर स्थानान्तरित स्थान पर ज्योइन करने की समय सीमा दिनांक 15.3.2016 के बाद की विचार में लेने तत्पश्चात उसके द्वारा सिकनेस सटिफिकेट नहीं भेजे जाने एवं न ही रिपोर्ट करने के तथ्य वर्णित करते हुए उसे 48 घण्टे में रायपुर ज्योइन करने के तथा दिनांक 9.2.2016 से अनाधिकृत अनुपस्थिति के बारे में स्पष्टीकरण देने बाबत प्रार्थी को लिखा गया है। प्रदर्श

डब्ल्यू-19 प्रार्थी का टर्मिनेशन पत्र है जिसमें उसकी दिनांक 9.3.2016 से अनुपस्थिति बताते हुए उसका नाम मस्टर रोल से हटाया जाना वर्णित है। प्रदर्श डब्ल्यू-20 जिसमें अप्रार्थी संस्थान के कार्यालय आदेश दि. 6.2.16 की प्रति है जिसमें प्रार्थी सहित तीन व्यक्तियों के माइंस डिपार्टमेंट यूनिट 3 से 8, रास से माइंस डिपार्टमेंट रायपुर (बलोदा बाजार) स्थानान्तरण किया जाना वर्णित है। प्रदर्श डब्ल्यू.21 डायरेक्टर ऑफ सेफ्टी को अप्रार्थी पक्ष द्वारा दिए गए जवाब की प्रति है। इस अप्रार्थी साक्षी एन ए डब्ल्यू.1 पंकज अग्रवाल द्वारा अपनी जिरह की साक्ष्य में साक्ष्य दी गयी है कि यह कहना गलत है कि प्रार्थी का स्थानान्तरण रायपुर छत्तीसगढ़ किये जाने की सूचना नहीं दी हो। यह सही है कि प्रार्थी को दी गयी सूचना पत्रावली पर पेश नहीं की गयी है। सूचना व्यक्तिगत दी गयी थी। सूचना बाबत कोई लिखित दस्तावेजात् पेश नहीं किया गया है। मुझे ध्यान नहीं है कि अजयसिंह ने अपनी बीमारी की सूचना हमें दी या नहीं। प्रदर्श एम-1 का ध्यान नहीं है, आफिस में दी होगी। प्रदर्श-डब्ल्यू-19 की प्राप्ति रसीद वापस प्राप्त हुई या नहीं जानकारी नहीं है। प्रदर्श डब्ल्यू-18 प्रार्थी को मिला या नहीं, जानकारी में नहीं है। प्रदर्श डब्ल्यू-20 में जो लिखा वह सही है। हमारे संस्थान में स्टेपिंग आर्डर बने हुए हैं या नहीं मुझे जानकारी नहीं है। सेवापृथक करने से पूर्व प्रार्थी को नोटिस दिया अथवा इसकी जानकारी मुझे नहीं है। प्रार्थी को सेवापृथक से पूर्व कोई स्पष्टीकरण लिया गया या नहीं जानकारी नहीं है। प्रदर्श डब्ल्यू-21 डीजीएमएस का पत्र है जिसमें वर्णित कथन सही है। प्रदर्श डब्ल्यू-12 पत्र हमें प्राप्त हुआ था इसमें वर्णित कथन सही है।

10. अप्रार्थीगण के अगले साक्षी एन ए डब्ल्यू.2 के सी शर्मा द्वारा अपनी मुख्य परीक्षा के शपथ पत्र में स्वयं का अप्रार्थी संस्थान में वर्ष 2008 से कार्यरत होना तथा वर्ष 2016 में कंपनी की एस आर सी पी रायपुर माइंस छत्तीसगढ़ में सहायक जनरल मैनेजर के पद पर कार्यरत होना बताकर पत्र दि. 20.1.16, 8.2.16 व 17.3.16 की पुष्टि में तथ्य दर्ज करवाये गये हैं जिरह में इस साक्षी द्वारा साक्ष्य दी गयी है कि यह सही है कि हमने प्रदर्श एम-3 के द्वारा रास सीमेंट को रिक्वायरमेंट मांगी थी जिसके जवाब में प्रदर्श एम-4 के द्वारा हमें सूचना दी गयी थी। प्रदर्श एम-5 मेरे द्वारा जारी किया गया है।
11. अप्रार्थीगण के अगले साक्षी एन ए डब्ल्यू.3 पुर्षेंट्र कुमार भारद्वाज द्वारा अपनी मुख्य परीक्षा के शपथ पत्र में स्वयं को अप्रार्थी संस्थान पर उपाध्यक्ष (कार्मिक एवं प्रशासनिक) बताकर अप्रार्थीगण के अभिवचनानुसार ही साक्ष्य दी गयी है। इस साक्षी द्वारा अपनी साक्ष्य में प्रदर्श एम-10 से प्रदर्श एम-12 भी प्रदर्शित करवाये गये हैं। इस साक्षी द्वारा प्रदर्शित दस्तावेजों में प्रदर्श एम-10 प्रार्थी की उपस्थिति पंजिका की प्रति है। प्रदर्श एम-11/1 वर्ष 2016 के मेडिकल एक्जीमिनेशन सर्टिफिकेट की रिसीप्ट के रजिस्टर की प्रति व प्रदर्श एम-11/2 ओवरटाईम वेजेज तथा प्रदर्श एम-11/3 रजिस्टर ऑफ कम्पनसेटरी डेज ऑफ रेस्ट तथा प्रदर्श एम-12 ब्रेकअप ऑफ सेलेरी की फोटो प्रतिया है। इस साक्षी द्वारा अपनी जिरह की साक्ष्य में साक्ष्य दी गयी है कि मेरी जानकारी में नहीं है कि 23.3.2016, 24.3.2016 को होली का अवकाश हो व 25.3.2016 को गुडफाइडे का अवकाश हो। प्रदर्श-डब्ल्यू-22 पर पोस्टमेन का रिमार्क ए से बी है, प्रदर्श डब्ल्यू-22 पर डाक घर की मोहर स्पष्ट नहीं है यह सही है। यह प्रदर्श डब्ल्यू-22 पर लौटकर कम्पनी के पास कब आया नहीं बता सकता। डब्ल्यू-19 संस्थान द्वारा प्रार्थी को दिनांक 29.3.2016 की जारी किया गया था। यह सही है कि प्रदर्श-19 पर दिनांक 9.3.2019 अकित है जो कि ए से बी है जो सही लिखा है अजखुद कहा कि इस पर ओवर राइटिंग नजर आ रही है। यह सही है कि प्रदर्श डब्ल्यू-23 पर ए से बी पर पोस्टमेन का रिमार्क है जो सही है। यह डाक लौटकर संस्थान को कब प्राप्त हुई इसकी जानकारी मुझे नहीं है। कार्यालय आदेश दिनांक 6.2.2016 जो कि प्रदर्श डब्ल्यू-20 है द्वारा प्रार्थी को स्थानान्तरण की सूचना दी गई थी। जिस पर प्रार्थी की प्राप्ति नहीं है। प्रदर्श डब्ल्यू-22 प्रार्थी को डिलीवर नहीं हुआ या नहीं मेरी जानकारी में नहीं है। मेरी जानकारी में नहीं है कि प्रार्थी के द्वारा श्रमिक हित में मुद्दे उठाए गए हो। यह सही है कि प्रदर्श डब्ल्यू-18 में प्रार्थी के दिनांक 9.3.2016 से अनुपस्थित बताया गया है उसके संबंध में कोई आरोप पत्र देकर स्पष्टीकरण नहीं मांगा गया है और जांच भी नहीं करवाई गई है। मेरी जानकारी में नहीं है कि मस्टररोल से नाम हटाना सेवापृथक की परिभाषा में आता हो। हमारे संस्थान में स्टेपिंग आर्डर बने हुए हैं। यह सही है कि स्टेपिंग आर्डर के तहत हमने कोई जांच प्रार्थी के विरुद्ध नहीं की थी। यह मेरी जानकारी में नहीं है कि प्रदर्श डब्ल्यू-12 में उठाये गए बिन्दु खान सुरक्षा निदेशक गाजियाबाद द्वारा जांच के बाद उठाए गए या नहीं। यह कहना गलत है कि प्रार्थी के द्वारा श्रमिक हित में उठाए गए मुद्दों की वजह से उसको नौकरी से पृथक किया गया तथा उसका स्थानान्तरण रायपुर किया गया। मेरी जानकारी में नहीं है कि प्रार्थी ने संस्थान को समय समय पर मेडिकल अवकाश के लिए रोगी उपचार पर्ची दी हो। मेरी जानकारी में नहीं है कि प्रदर्श डब्ल्यू-10 व 11 संस्थान को प्राप्त हुए अथवा नहीं।
12. अब हम विवाद्यकों पर उनके क्रमानुसार विचार किया जाना न्यायसंगत समझते हैं।

विवाद्यक संख्या-1:-

13. इस विवाद्यक को साबित करने का भार प्रार्थी पर रहा है। प्रदर्श डब्ल्यू.5 नियुक्ति पत्र के उक्त वर्णित मद नं. 3 के दृष्टिगत विद्वान अधिवक्ता अप्रार्थीगण के यह तर्क तो माने जाने योग्य है कि प्रार्थी का जॉब ट्रांसफरेबल था अर्थात् अप्रार्थीगण के संस्थान में प्रार्थी का स्थानान्तरण एक स्थान से दूसरे स्थान पर करने की शर्त उक्त नियुक्ति पत्र में थी। उनके यह भी तर्क माने जाने योग्य है कि द्रासंफर सेवा का इंसीडेंट है तथा यही विधि माननीय सर्वोच्च न्यायालय द्वारा न्यायिक दृष्टांत 2004 एल एल आर 1103 केंद्रीय विद्यालय संगठन बनाम दामोदर प्रसाद पांडे व अन्य में प्रतिपादित की गयी है। उनके यह तर्क भी माने जाने योग्य है कि प्रदर्श डब्ल्यू-20 ट्रांसफर आदेश दि. 6.2.16 की जानकारी टर्मिनेशन पत्र प्रदर्श डब्ल्यू. 19 के जारी होने से पूर्व प्रार्थी को थी क्योंकि प्रदर्श एम-1 प्रार्थनापत्र जिसको कि प्रार्थी साक्षी द्वारा ए.डब्ल्यू-1 अजयसिंह सिसोदिया द्वारा अपनी जिरह की साक्ष्य में अपने स्थानान्तरण के बाद में उक्त प्रार्थनापत्र प्रबंधक को भेजना स्वीकार किया गया है जिसमें यद्यपि स्थानान्तरण की तिथि दिनांक 6.2.2012 वर्णित है किन्तु यह पत्र

दिनांक 18.2.2016 का है तथा इसे स्वयं प्रार्थी ने उक्त प्रकार अपने स्थानान्तरण के बाद में देना स्वीकार किया है। इसके साथ के रोपी उपचार पत्र प्रदर्श एम-2 की तिथि दिनांक 12.2.2016 ही है।

14. अप्रार्थी संस्थान के विरुद्ध खान सुरक्षा निदेशालय की जांच की रिपोर्ट दि. 10.6.16 प्रदर्श डब्ल्यू-12 जिसका जवाब अप्रार्थी संस्थान की ओर से प्रदर्श डब्ल्यू-21 के जरिये दिया गया है, की शिकायत प्रार्थी द्वारा नहीं की गई हो यह अप्रार्थीगण की ओर से साक्ष्य के माध्यम से प्रकट नहीं होता है। यद्यपि प्रार्थी के उक्त पाईल्स की बीमारी नहीं हो यह नहीं माना जा सकता है क्योंकि उक्त संबंध में उक्त प्रकार रोग उपचार पर्चियां हैं जिनकी अनदेखी नहीं की जा सकती है किन्तु यह बीमारी उसके उक्त कार्य की वजह से हुई हो या कोई अन्य कर्मचारी के ऐसी बीमारी हुई हो इसकी भी पत्रावली पर कोई साक्ष्य नहीं है।
15. प्रदर्श डब. 18 पत्र दि. 23.3.16 अप्रार्थीगण की ओर से प्रार्थी को जारी किया जाना बताया गया है जिसमें उसको अडतालीस घंटे में स्थानान्तरित स्थान पर ज्वाइन करने का निर्देश दिया गया है किन्तु यह पत्र किस प्रकार प्रार्थी को डिलीवर किया गया इसकी पत्रावली पर लेश मात्र भी साक्ष्य नहीं है। यद्यपि पत्रावली पर प्रदर्श-डब्ल्यू-22 व 23 लिफाफे अप्रार्थी पक्ष की ओर से पेश किए गए हैं किन्तु इन पर प्रार्थी का पता उसका मूल ग्राम गोविंदगढ़ का अंकित है जिन पर डाकिये द्वारा प्राप्तकर्ता का यहां नहीं रहना वर्णित किया गया है। प्रार्थी द्वारा अपने स्टेटमेंट ऑफ क्लेम में ही अपना हाल पता शारदा स्कूल के पास, निंबेटी रोड, मुंपोरा रास का वर्णित किया गया है जिसके बारे में अप्रार्थीगण की ओर से अपने जवाब में कोई एतराज नहीं किया गया है ऐसे में प्रार्थी के रहने के पते के संबंध में अप्रार्थीगण की ओर से उसकी जिरह में किए गए प्रश्नों से अप्रार्थी पक्ष को फायदा नहीं मिलता है। उक्त प्रदर्श डब.18 पत्र में प्रार्थी को दि. 9.2.16 से तथा टर्मिनेशन पत्र प्रदर्श डब्ल्यू-19 में प्रार्थी को दिनांक 9.3.2016 से अनाधिकृत तौर से अनुपस्थित बताया गया है जिन दोनों तिथियों में एक माह का अंतर है। इनका तात्पर्य यही निकलता है कि दि. 8.3.16 तक प्रार्थी द्वारा अप्रार्थी संस्थान में कार्य किया जाना स्वयं अप्रार्थी पक्ष मानता है यदि ऐसा था तो द्रांसफर आदेश दि. 6.2.16 प्रदर्श डब्ल्यू-20 के बाद भी दि. 7.2.16 व 8.2.16 व फिर दिनांक 8.3.2016 तक प्रार्थी से अप्रार्थी संस्थान द्वारा रास माइंस में किस प्रकार कार्य लिया गया गया यह तथ्य भी प्रार्थी की ओर जाता है। विद्वान अधिवक्ता प्रतिनिधि अप्रार्थी के यह तर्क माने जाने योग्य है कि प्रदर्श डब.10 लगायत डब.11 एवं प्रदर्श एम-2 रोग उपचार पत्रों पर प्रार्थी के हस्ताक्षर नहीं है किन्तु सामान्यतया उपचार पर्चियों पर मरीजों के हस्ताक्षर नहीं होते हैं तथा प्रदर्श एम-2 के आधार पर प्रदर्श एम-1 प्रार्थनापत्र को विचार में लेकर दिनांक 15.3.2016 के बाद चिकित्सकीय आधारों पर ज्वोइन करने की प्रार्थना विचार में लिए जाने का तथ्य स्वयं अप्रार्थी पक्ष के दस्तावेज प्रदर्श डब्ल्यू-18 में अंकित है। इसका यही तात्पर्य निकलता है कि स्वयं अप्रार्थी पक्ष ने प्रार्थी को दिनांक 15.3.2016 के बाद में ज्वोइन करने की मौहलत दे दी थी। जिस पश्चात प्रार्थी को अप्रार्थी पक्ष की ओर से जारी उक्त पत्र दिनांक 23.3.2016 प्रदर्श डब्ल्यू-18 प्रार्थी को प्राप्त हो गया हो इसकी पत्रावली पर उक्त विवेचनानुसार कोई साक्ष्य नहीं है।
16. विद्वान अधिवक्ता प्रार्थी के यह तर्क माने जाने योग्य है कि उक्त परिस्थितियों में जबकि प्रार्थी की स्वयं अप्रार्थी पक्ष की ओर से दिनांक 15.3.2016 के पश्चात ज्वोइन करने की प्रार्थना को विचार में लिया गया है व मौहलत दी गई है तो फिर बिना प्रदर्श डब.18 पत्र की प्रार्थी को प्राप्ति के सीधे अप्रार्थीगण के संस्थान द्वारा प्रदर्श डब.19 के जरिये प्रार्थी को अपने आदेश दि. 29.3.16 से टर्मिनेट कर दिया जाना भी वैधानिक दृष्टिकोण से सही नहीं ठहराया जा सकता है क्योंकि अप्रार्थीगण के संस्थान को अपने पत्र दिनांक 23.3.2016 प्रदर्श डब्ल्यू-18 से प्रार्थी को समुचित प्रकार प्रयास कर उसे सूचित करना चाहिए था तथा प्रदर्श डब.18 पत्र प्रार्थी को परिदान करना चाहिए था यदि उसकी डाक वापस लौट गई थी तो सही पते पर भेजी जानी चाहिए थी फिर उक्त विवेचनानुसार स्टेटमेंट ऑफ क्लेम के शीर्षक में प्रार्थी द्वारा वर्णित उसके मुकाम पोस्ट रास के हाल पते को अप्रार्थीगण द्वारा खण्डित भी नहीं किया गया है न ही अप्रार्थीगण की ओर से यह साक्ष्य है कि उक्त पते की अप्रार्थी पक्ष को जानकारी नहीं थी। उक्त परिस्थितियों में अप्रार्थीगण की ओर से प्रस्तुत न्यायिक दृष्टांत 2007 एल एल आर 390 श्याम सुंदर अग्रवाल बनाम मै0 ग्लोब डिस्ट्रिक्ट एजेंसी प्रा0 लि0 व अन्य एवं न्यायिक दृष्टांत 2001 एलएल आर 548 स्टेट बैंक ऑफ इंडिया बनाम अंजायन सान्याल तथ्यों की भिन्नता के कारण अप्रार्थीगण की कोई मदद नहीं करते हैं। न्यायिक दृष्टांत 2015 एल एल आर 169 कांपीटेंट सिक्युरिटी सर्विसेज बनाम गवर्नमेंट ऑफ एन सी टी ऑफ देहली व अन्य में प्रबंधन की ओर से पत्र जारी किया जाकर द्रांसफर आदेश की पालना नहीं किये जाने बाबत कर्मचारी से स्पष्टीकरण चाहा गया था एवं कर्मचारी ने उसका जवाब दिया था जो परिस्थिति भी हस्तगत प्रकरण में नहीं है बल्कि हस्तगत प्रकरण में प्रदर्श डब्ल्यू-18 पत्र प्रार्थी को संसुचित नहीं होने की उक्त प्रकार परिस्थिति है। जिस कारण उक्त न्यायिक दृष्टांत अप्रार्थीगण की तथ्यों की भिन्नता के कारण कोई सहायता नहीं करता है। न्यायिक दृष्टांत 2001 (2) सुप्रीम कोर्ट केसेज 289 एडीसनस पेंट्स एंड केमिकल्स लि0 बनाम वर्कमैन रिप्रजेंटेड बाइ दी सैक्रेट्री (ए पी एंड सी) असिस्टेंट्स ऐसोसिएशन व अन्य में कर्मचारी द्वारा स्थानान्तरित स्थान पर जाने से इंकारी की गयी थी ऐसी इंकारी की हस्तगत प्रकरण में कोई साक्ष्य नहीं है। न्यायिक दृष्टांत 2018 एल एल आर 752 करुनाकरण बनाम भारती इलेक्ट्रोनिक्स लि0 रिप्र.बाई इट्स चेयरमैन कम मैनेजिंग डायरेक्टर व अन्य में उन्नीस व्यक्तियों का स्थानान्तरण प्रशासनिक दृष्टि से किया गया था जैसा भी तथ्य हस्तगत प्रकरण में नहीं है। न्यायिक दृष्टांत 2018 एल एल आर 727 एच पी स्टेट कॉप.मार्किटिंग एंड कंजूमर्स फेडरेशन लि0 बनाम नैनसुख में घरेलू जांच की गयी थी जो परिस्थिति हस्तगत प्रकरण में नहीं है। हस्तगत प्रकरण की उक्त वर्णित परिस्थिति में अप्रार्थीगण के संस्थान को प्रार्थी को पत्र प्रेषित करके एवं प्रार्थी को उसकी प्राप्ति करवाकर कार्य पर उपस्थित होने बाबत चेतावनी देते हुए स्पष्टीकरण चाहा जाना था एवं उसकी अनाधिकृत अनुपस्थिति के बारे में घरेलू जांच की जानी थी जो स्वीकृत तौर पर ऐसा अप्रार्थीगण द्वारा नहीं किया गया है। ऐसे में अप्रार्थीगण की ओर से दिये गये न तो यह तर्क माने जाने योग्य है कि प्रार्थी स्वयं द्वारा सेवा का अभियंजन कर दिया गया था न ही यह तर्क माने जाने योग्य है कि प्रकरण में धारा 25 एफ

आई डी एक्ट 1947 लागू नहीं होते हैं। पूर्व में विवेचित परिस्थितियों में अप्रार्थीगण की ओर से दिया गया यह भी तर्क माने जाने योग्य नहीं है कि प्रार्थी द्वारा स्थानांतरण आदेश की पालना नहीं की जाकर लगातार अनुपस्थित रह कर सेवा का अभियजन कर दिया गया था। उक्त परिस्थितियों में न्यायिक दृष्टांत 2018 एल एल आर 933 विलास गनपति पाटिल बनाम सुयोग बैकवेल वसंतदादा औद्योगिक वसाहत, सांगली व अन्य भी तथ्यों की भिन्नता के कारण अप्रार्थीगण की कोई मदद नहीं करता है। प्रार्थी के सेवामुक्ति से पूर्व वर्ष में 240 कार्य के दिन पूर्ण नहीं होते हो ऐसा कोई एतराज अप्रार्थीगण की ओर से अपने तर्कों में नहीं लिया गया है। प्रार्थी की सेवामुक्ति से पूर्व अप्रार्थीगण की ओर से धारा 25 एफ औद्योगिक विवाद अधिनियम 1947 की पालना स्वीकृत तौर पर नहीं की गयी है। उक्त समस्त परिस्थितियों में अप्रार्थी संस्थान की ओर से प्रार्थी की सेवा समाप्ति बाबत पारित आदेश दि. 29.3.16 अनुचित एवं अवैध है इसमें कोई संदेह नहीं है। परिणामस्वरूप उक्त विवाद्यक सं.1 प्रार्थी के पक्ष में विनिश्चत किया जाता है।

विवाद्यक सं. 2:-

17. उक्त विवाद्यक को सिद्ध करने का भार अप्रार्थीगण पर रहा है। विद्वान अधिवक्ता प्रतिनिधि अप्रार्थी के यह तर्क सही है कि प्रार्थी द्वारा अपने स्टेटमेंट ऑफ क्लेम के शीर्षक में ही श्री सीमेंट लिंग की ईकाई रास तहसील जैतारण जिला पाली में होना दर्ज किया गया है किन्तु प्रकरण में स्वीकृत तौर पर यह स्थिति है कि अप्रार्थीगण का मुख्यालय व्यावर में स्थित है तथा प्रार्थी की नियुक्ति आदेश एवं सेवामुक्ति आदेश भी यही से जारी किए गए हैं प्रकरण में समझौता वार्ता अजमेर में चली है। प्रमाण पत्र अन्तर्गत धारा 2-ए औद्योगिक विवाद अधिनियम 1947 भी सहायक श्रम आयुक्त, केन्द्रीय अजमेर द्वारा जारी किया गया है। जिसमें प्रार्थी अपना मामला इस श्रम न्यायालय में उठाए जाने के समर्थ किए जाने के तथ्य दर्ज है। इस आदेश के विरुद्ध अप्रार्थीगण की ओर से माननीय उच्च न्यायालय के समक्ष कोई कार्यवाही नहीं की गई है न ही किसी प्रकार वहां चुनौती दी गई है। विद्वान अधिवक्ता प्रतिनिधि अप्रार्थी के यह तर्क सही है कि प्रार्थी स्वीकृत तौर पर अपने टर्मिनेशन के समय रास जिला पाली में ही कार्यरत था किन्तु इस संबंध में विद्वान अधिवक्ता प्रार्थी के यह तर्क भी माने जाने योग्य है कि उभय पक्ष के मध्य श्रमिक एवं नियोजक का संबंध प्रार्थी का नियुक्ति आदेश व्यावर से ही जारी होने से हुआ है तथा उसकी सेवामुक्ति आदेश भी व्यावर से ही जारी हुआ है। हाल ही में माननीय उच्चतम न्यायालय द्वारा न्यायिक दृष्टांत नंदाराम बनाम गारवेर पोलीस्टर लिंग (2016) 6 एस.सी.सी. 290 में निम्नांकित विधि प्रतिपादित की गई है:-

Though, the learned counsel on both sides had addressed in detail on several issues, we do not think it necessary to go into all those aspects mainly because in our view they are only academic. In the background of the factual matrix, the undisputed position is that the appellant was employed by the Company in Aurangabad, he was only transferred to Pondicherry, the decision to close down the unit at Pondicherry was taken by the Company at Aurangabad and consequent upon that decision only the appellant was terminated. Therefore, it cannot be said that there is no cause of action at all in Aurangabad. The decision to terminate the appellant having been taken at Aurangabad necessarily part of the cause of action has arisen at Aurangabad. We have no quarrel that Labour Court, Pondicherry is within its jurisdiction to consider the case of the appellant, since he has been terminated while he was working at Pondicherry. But that does not mean that Labour Court in Aurangabad within whose jurisdiction the Management is situated and where the Management has taken the decision to close down the unit at Pondicherry and pursuant to which the appellant was terminated from service also does not have the jurisdiction. In the facts of this case both the Labour Courts have the jurisdiction to deal with the matter. Hence, the Labour Court at Aurangabad is well within its jurisdiction to consider the complaint filed by the appellant. Therefore, we set aside the order passed by the High Court and the Industrial Court at Aurangabad and restore the order passed by the Labour Court, Aurangabad though for different reasons.

18. उक्त न्यायिक दृष्टांत में प्रतिपादित विधि के मध्यनजर यह नहीं माना जा सकता कि प्रार्थी को वाद कारण इस न्यायालय के क्षेत्राधिकार में बिलकुल भी पैदा नहीं हुआ क्योंकि प्रार्थी की नियुक्ति व टर्मिनेशन आदेश व्यावर में ही जारी हुए हैं एवं प्रार्थी के टर्मिनेशन का निर्णय अप्रार्थी पक्ष द्वारा व्यावर में ही लिया जाना प्रकट होता है तथा समझौता वार्ता भी अजमेर में हुई है एवं अप्रार्थीगण संख्या-3 व 4 का कार्यालय भी व्यावर में ही है। अप्रार्थीगण पर प्रकरण के इस न्यायालय द्वारा के सुनवाई किए जाने से प्रीज्यूडिश भी कारित नहीं होता है क्योंकि उसका मुख्यालय एवं अप्रार्थीगण संख्या-3 व 4 का कार्यालय इस न्यायालय के क्षेत्राधिकार में है। अप्रार्थी पक्ष द्वारा उक्त बिन्दु पर प्रस्तुत न्यायिक दृष्टांत अप्रार्थी पक्ष की कोई मदद नहीं करते हैं तथा अप्रार्थी पक्ष के तर्क माने जाने योग्य नहीं है कि इस न्यायालय को हस्तगत प्रकरण का क्षेत्राधिकार नहीं हो। अतः उक्त विवाद्यक संख्या-2 अप्रार्थीगण के विरुद्ध व प्रार्थी के पक्ष में तय किए जाने योग्य होने से उक्त विवाद्यक संख्या-2 अप्रार्थी पक्ष के विरुद्ध एवं प्रार्थी के पक्ष में तय किया जाता है।

विवाद्यक सं.3:-

19. विवाद्यक 3 अनुतोष के बारे में है। विद्वान अधिवक्ता अप्रार्थीगण के यह तर्क सही है कि प्रार्थी की ओर से अपने अभिवचनों व साक्ष्य में अपने टर्मिनेशन के पश्चात गेनफुल एंप्लॉयमेंट में नहीं रहने बाबत लेश मात्र भी कथन नहीं किया गया है। जबकि ऐसा करने का प्राथमिक उत्तरदायित्व स्वयं प्रार्थी पर ही था। जिस पश्चात ही उस उक्त तथ्य का खंडन अप्रार्थीगण द्वारा किया जाना था। यही विधि माननीय एम पी उच्च न्यायालय द्वारा न्यायिक दृष्टांत 2016 एल एल आर 1244 इंजीरियर इन चीफ वाटर रिसोसेज डिपार्टमेंट भोपाल बनाम मानहरण में प्रतिपादित की गयी है। न्यायिक दृष्टांत 2005 एल एल आर 275 केन्द्रीय विद्यालय संगठन व अन्य में माननीय सर्वोच्च न्यायालय द्वारा उक्त अनुसार ही विधि प्रतिपादित करते हुए बैक वेजेज के लिए कर्मकार का यह प्रकट करना आवश्यक होना अभिनिर्धरित किया गया है।

कि वह गेनफुल एंपलैंयमेंट में नहीं था । न्यायिक दृष्टांत 2018 (2) सुप्रीम कोर्ट केसेज (एल एंड एस) 395 पी करुपैया मृतक थू लीगल में भी माननीय सर्वोच्च न्यायालय द्वारा यहीं विधि प्रतिपादित की गयी है । स्वयं प्रार्थी की ओर से उक्त बिन्दु पर प्रस्तुत न्यायिक दृष्टांतों का भी सार यहीं है । समस्त परिस्थितियों में प्रार्थी को पूर्व वेतन भत्तों व परिलाभ का अधिकारी होना कर्तव्य भी नहीं माना जा सकता है किंतु विवाद्यक सं.1 प्रार्थी के पक्ष में तथा विवाद्यक संख्या-2 अप्रार्थीगण के विरुद्ध विनिश्चत किये जाने से प्रार्थी अप्रार्थीगण के यहां पूर्वत सेवा में निरंतरता सहित बहाली पाने का अधिकारी होना माने जाने योग्य है । यद्यपि विद्वान अधिवक्ता अप्रार्थीगण के द्वारा इस संबंध में दिये गये यह तर्क माने जाने योग्य है कि प्रार्थी द्वारा स्टेटमेंट ऑफ क्लेम में अपने अनुतोष को स्पष्ट नहीं किया गया है किंतु प्रार्थी किस प्रकार के अनुतोष का पात्र है इस पर विचार करने का दायित्व न्यायालय का है । फलस्वरूप विवाद्यक सं.3 निरंतरता सहित पूर्वत अप्रार्थीगण की सेवा में बहाली के प्रार्थी के अधिकारी होने के अनुतोष की हद तक प्रार्थी के पक्ष में विनिश्चत किया जाता है तथा प्रार्थी का स्टेटमेंट ऑफ क्लेम विरुद्ध अप्रार्थीगण उक्त प्रकार ही स्वीकार किये जाने योग्य पाया जाता है ।

आदेश

- 20.. अतः प्रार्थी का स्टेटमेंट ऑफ क्लेम विरुद्ध अप्रार्थीगण आंशिक रूप से स्वीकार किया जाकर अप्रार्थी पक्ष द्वारा प्रार्थी की सेवामुक्ति बाबत पारित आदेश दि. 29.3.16 अनुचित एवं अवैध करार दिये जाते हुए अप्रार्थी पक्ष को आदेश दिया जाता है कि वे प्रार्थी को निरंतरता सहित पूर्वत अपनी सेवा में अविलंब बहाल करें । किंतु प्रार्थी को पूर्व वेतन भत्तों व परिलाभ का अधिकारी नहीं होना अभिनिर्धारित किया जाता है । खर्च पक्षकारान् अपना अपना वहन करेंगे ।
21. अवार्ड लिखाया जाकर आज दिनांक 18.3.2019 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया । अवार्ड की प्रति नियमानुसार केंद्र सरकार को वास्ते गजट में प्रकाशन प्रेषित की जावे ।

एस. एन. टेलर, न्यायाधीश

नई दिल्ली, 6 मई, 2019

का. आ. 751.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार में सर्वसेवकों टेक्नोमिन कन्स्ट्रक्शन लिमिटेड एवं हिन्दुस्तान जिक लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय, अजमेर के पंचाट (संदर्भ संख्या 03/2016) को प्रकाशित करती है जो केन्द्रीय सरकार को 03.05.2019 को प्राप्त हुआ था।

[सं. जेड-16025/4/2019-आई आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 6th May, 2019

S.O. 751.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 03/2016) of the Central Government Industrial Tribunal/Labour Court, Ajmer now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Teknomin Construction and Hindustan Zinc Limited and their workman, which was received by the Central Government on 03/05/2019.

[No. Z-16025/4/2019-IR(M)]

D. K. HIMANSHU, Under Secy.

अनुबंध

श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर
पीठासीन अधिकारी—श्री एस.एन.टेलर, आर.एच.जे.एस

प्रकरण संख्या— सी.आई.टी.आर. 03 / 16

सी.आई.एस नं 0 2 / 16

श्री पुष्पेंद्र सिंह पुत्र श्री प्रहलाद सिंह जाति राजपूत, निवासी — बंवाल तहसील परबतसर, थाना पिलवा जिला नागौर, राजस्थान । —प्रार्थी

बनाम

1. जनरल मैनेजर, टेक्नोमिन कनस्ट्रक्शन लिमिटेड, विध्या विहार, पोस्ट कायड अजमेर, राजस्थान
2. जनरल मैनेजर, हिन्दुस्थान जिंक लिमिटेड, कायड मार्ईन्स पोस्ट कायड अजमेर, राजस्थान

—अप्रार्थी

उपस्थिति

- प्रार्थी की ओर से : श्री कृष्णगोपाल खत्री, अधिवक्ता ।
 अप्रार्थी सं.1 की ओर से : श्री जवाहर लाल शर्मा, अधिवक्ता ।
 अप्रार्थी सं.2 के विरुद्ध : एकपक्षीय कार्यवाही ।
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अधिनिर्णय

दिनांक 29.3.2019

1. प्रार्थी द्वारा सहायक श्रम आयुक्त (केन्द्रीय)अजमेर के समक्ष शिकायत प्रस्तुत किये जाने पर अन्तर्गत धारा 2 ए औद्योगिक विवाद अधिनियम 1947 प्रमाण पत्र प्राप्त होन पर इस न्यायालय के समक्ष अप्रार्थी के विरुद्ध अपना स्टेटमेन्ट ऑफ क्लेम दिनांक 8.11.16 को इस आशय का प्रस्तुत किया गया है कि अप्रार्थी संख्या 2 कम्पनी द्वारा अप्रार्थी संख्या 1 कम्पनी को कायड खान में भूमिगत खान डेवेलपमेंट का कार्य सिमित समय के लिए जारी किया गया है। अप्रार्थी संख्या 1 कम्पनी द्वारा कायड मार्ईन्स में खनन के कार्य हेतु नियुक्ति पत्र जारी करते हुए प्रार्थी को अस्थाई मजदूरी पद हेतु नियुक्ति प्रदान की गई प्रार्थी ने कुल वेतन रु 12,787/- पर कार्य करना आरम्भ कर दिया। अप्रार्थी सं 1 द्वारा प्रार्थी को रोड ग्रेडर ऑपरेटर का कार्य करने के लिए बाध्य किया गया। प्रार्थी द्वारा रोड ग्रेडर ऑपरेटर कार्य मजबूरन स्वीकार करना पड़ा और फिर अप्रार्थी संख्या 1 द्वारा कभी प्रार्थी से मजदूरी कराई जाती तो कभी रोड ग्रेडर ऑपरेटर का कार्य लिया जाता। अप्रार्थी संख्या 1 द्वारा प्रार्थी को कभी भी रोड ग्रेडर ऑपरेटर का नियुक्ति या पदोन्नति पत्र जारी नहीं किया गया। प्रार्थी द्वारा एक पत्र दिनांक 7.2.2014 को श्रीमान सहायक श्रम आयुक्त एवं समझौता अधिकारी (केन्द्रीय)अजमेर को लिखा गया जिसके फलस्वरूप अप्रार्थी संख्या 1 कम्पनी द्वारा कुछ समय बाद प्रार्थी के वेतन ग्रेडर में बढ़ोतरी कर प्रार्थी का वेतन 19,024/- रुपये प्रतिमाह कर दिया गया हालांकि प्रार्थी को रोड ग्रेडर ऑपरेटर बावत कोई नियुक्ति पत्र जारी नहीं किया गया पर कार्य जबरन रोड ग्रेडर ऑपरेटर का ही लिया जाता रहा। दिनांक 28.3.2015 को अप्रार्थी संख्या 1 द्वारा प्रार्थी को बिना कोई कारण बताए एक निलम्बन आदेश संख्या 198 दिनांक 28.3.15 जारी करते हुए प्रार्थी पर लापरवाही से रोड ग्रेडर चलाने के चलते निलम्बित कर दिया। डोमेस्टिक इन्कायरी चलाए जाने की सूचना भी दी गई। प्रार्थी को निलम्बन अवधि के दौरान कोई भी subsistence allowance जारी नहीं किया गया व प्रार्थी का शोषण किया। निलम्बन के दौरान पेडिंग इन्क्यावरी के चलते प्रार्थी से लगभग एक महीना एवं 15 दिनों तक कोई कार्य नहीं लिया गया व किसी प्रकार की कोई वैध डोमेस्टिक व अन्य इन्क्यावरी भी नहीं की गई न ही प्रार्थी को कोई चार्ज शीट ही इस बावत कभी जारी की गई थी, न कोई इन्क्यावरी ऑफिसर नियुक्त हुआ न कोई कोई गवाही हुई, न प्रार्थी को किसी से प्रतिपरिक्षा करने का अवसर दिया गया, न इन्क्यावरी रिपोर्ट प्रार्थी को कभी प्रदान की गई व नहीं प्रार्थी को कभी सुनवाई का मौका ही दिया गया। दिनांक 13.5.15 को पत्र कमांक शून्य दिनांक 13.5.15 के तहत रोड ग्रेडर क्षतिग्रस्त होने की सजा देते हुए प्रार्थी को दण्डित कर दिया गया। कथित डोमेस्टिक इन्क्यावरी/जॉच के सम्बन्ध में प्रार्थी द्वारा अपने पत्र दिनांक 2.7.15 के तहत अप्रार्थी संख्या 1 से आरोप पत्र/चार्ज शीट की प्रति, समस्त जॉच कार्यवाही, दण्डादेश आदि की प्रमाणित प्रतियों मांगे जाने के बावजूद भी प्रार्थी को अप्रार्थी संख्या 1 द्वारा उक्त में से कोई भी दस्तावेज प्रदान नहीं किया गया है। उक्त सभी तथ्यों से यह साफ साफ सिद्ध होता है कि अप्रार्थी संख्या 1 द्वारा प्रार्थी के विरुद्ध की गई समस्त कार्यवाही द्वेषतापूर्वक तरीके से आनन फानन में प्राकृतिक न्याय प्रणाली के सिद्धान्तों को ताक पर रख कर की गई है व प्रार्थी को बेवजह प्रताडित किया गया है व नौकरी से जबरन निकाला गया है। अप्रार्थीगण/नियोजक के अनुचित कृत्यों क्रमशः प्रार्थी/श्रमिक पर झूठा आरोप लागाते हुए प्रार्थी के विरुद्ध रोड ग्रेडर के क्षतिग्रस्त करने के चलते अविधिक मांग रु 11,00,000/- ग्यारह लाख प्रार्थी के वेतन एवं भत्तों से काटे जाने का दण्ड तथा साथ ही प्रार्थी/श्रमिक को अनुचित तरीके से निलम्बित करने पर प्रार्थी को निलम्बन अवधि के दौरान कोई भी subsistence allowance जारी नहीं किया जाना व उसके बाद प्रार्थी को नौकरी से निकाल दिए जाने जैसे घोर दण्डादेश से दण्डित किए जाने से प्रार्थी/श्रमिक व प्रार्थी के परिवार को अत्यधिक मानसिक व आर्थिक हानि वहन करनी पड़ रही है जबकि प्रार्थी/श्रमिक का इसमें कोई कसूर भी नहीं है। समझौता वार्ता की विफलता के परिणाम स्वरूप सहायक श्रम आयुक्त एवं समझौता अधिकारी केन्द्रीय द्वारा प्रार्थी/श्रमिक को अन्तर्गत धारा 2 ए औद्योगिक विवाद अधिनियम 1947 के तहत प्रमाण पत्र जारी करते हुए उक्त विवाद को निपटाने को इस न्यायालय/औद्योगिक न्यायाधिकरण के समक्ष प्रस्तुत किए जाने की अनुमति प्रदान कर दी गई जिसके फलस्वरूप प्रार्थी/श्रमिक द्वारा वर्तमान प्रार्थना पत्र/स्टेटमेन्ट ऑफ क्लेम इस न्यायालय के समक्ष प्रस्तुत किया जा रहा है। अंत में प्रार्थना की है कि प्रार्थी श्रमिक के विरुद्ध अविधिक रूप से कायम 11,00,000/- की मांग के दण्डादेश दिनांक 13.5.15 को रद्द करते हुए प्रार्थी/श्रमिक को दूबारा नौकरी प्रदान की जावे। प्रार्थी/श्रमिक का अविधिक रूप से निलम्बन करने पर निलम्बन अवधि के दौरान देय वेतन एवं भत्ते जारी कराए जावे। पुनः नौकरी पर बहाल किए जाने की अवधि तक का वेतन जारी करवाया जावे। दिवाली बोनस जारी किया जावे। 18 प्रतिशत वार्षिक ब्याज वाद व्यय अप्रार्थीगण से दिलवाया जावे।

2. तलब किये जाने पर अप्रार्थी संख्या 2 बावजूद तामील नोटिस के अनुपस्थित रहा जिस पर उसके विरुद्ध दिनांक 5.4.17 को एक तरफा कार्यवाही अमल में लाई गई। अप्रार्थी संख्या 1 द्वारा जरिये अधिवक्ता उपस्थित होकर प्रार्थी के उक्त स्टेटमेन्ट ऑफ क्लेम का जवाब प्रस्तुत कर प्रार्थी के स्टेटमेन्ट ऑफ क्लेम को मदवार अस्वीकार करते हुए अभिवचन किये गये हैं कि प्रार्थी ने स्वेच्छा से रोड ग्रेडर का कार्य देने की प्रार्थना की जिस पर अप्रार्थी सं. 1 ने उससे रोड ग्रेडर का कार्य लेना आरम्भ किया। प्रार्थी की ड्यूटी के प्रति सत्यनिष्ठा व ईमानदारी व कार्यकृशलता को देखते हुए उसके वेतन ग्रेड में बढ़ोत्तरी की गई। प्रार्थी का उसके द्वारा किये जा रहे रोड ग्रेडर के कार्य को ढंग से सम्पादित नहीं किये जाने व जानबूझकर लापरवाही से रोड ग्रेडर चलाने के कारण उसे सही निलम्बन अवधि में अप्रार्थी सं. 1 के कहने के बावजूद निलम्बन भत्ता प्राप्त नहीं किया। प्रार्थी अप्रार्थी संख्या 1 के अधीन कायड माईन्स में रोड ग्रेडर आपरेटर के रूप में काम करने के लिए दिनांक 20.3.2015 को ए पारी में निर्धारित किया था। कार्य के दौरान प्रार्थी ने रोड ग्रेडर लापरवाही से चला कर रोड ग्रेडर का क्षतिग्रस्त कर दिया। इससे पूर्व भी प्रार्थी ने तीन दिवस पूर्व दिनांक 16.3.2015 को सी पारी में रोड ग्रेडर को लापरवाही से चला कर क्षतिग्रस्त किया था। प्रार्थी का कार्य कभी संतोषप्रद नहीं रहा व वह स्वेच्छा से कार्य से बिना सूचना अनुपस्थित रहने का आदतन था। जिसके बावत उसे लिखित में चेतावनी पत्र भी दिया गया समय समय पर चेतावनी भी दी गयी व उसने अपनी गलती स्वीकार करते हुए माफी भी मांगी थी लेकिन उसने अपने कार्य व व्यवहार में कोई परिवर्तन नहीं किया व लापरवाही पूर्ण कृत्य को जारी रखा। उक्त सभी दुराचरणों का अंकन करते हुए अप्रार्थी सं. 1 द्वारा प्रार्थी को निलम्बन करके आरोप पत्र अपने पत्र क्रमांक संख्या 198 दिनांक 28.3.15 से प्रार्थी को दिया जिसको प्राप्त करने के बावजूद प्रार्थी ने कोई जवाब नहीं दिया व इस कारण अप्रार्थी सं. 1 द्वारा उक्त आरोपो बावत एक जांच कमेटी गठन की गई जिसके द्वारा 14.4.15 को इस बावत जांच की गई जिसमें प्रार्थी ने भी भाग लिया व उससे पूछे गये सवालों का जवाब दिया। जांच कमेटी के द्वारा दिनांक 14.4.15 को पूछे गये सवालों के जवाब में प्रार्थी जो जवाब दिया गया उससे प्रकट है कि दिनांक 20.3.15 को प्रार्थी ने बिना किसी सक्षम अधिकारी/सुपिरियर्स के आदेश के व उसे मात्र पार्किंग में कार्य करने के दिये गये आदेशों के विपरीत जाकर स्वेच्छा से लापरवाही से गाड़ी चला कर उसे क्षतिग्रस्त कर दिया। जांच कमेटी के समक्ष यह भी तथ्य आया कि प्रार्थी को गाड़ी का मेन्टेनेन्स पार्किंग में नहीं करने की बात थी तथा गाड़ी चलाने का आदेश प्रार्थी के सुपिरियर्स श्री कन्हैयालाल इन्जीनियर द्वारा उसे नहीं दिया गया था। श्री कन्हैयालाल इन्जीनियर द्वारा जांच कमेटी को यह भी बताया गया कि प्रार्थी ने लापरवाही पूर्ण तरीके से गाड़ी चलाई और शराब पिये हुए था और वह गाड़ी चलाने लायक नहीं है। प्रार्थी ने जांच कमेटी के समक्ष इस कथन को स्पष्ट रूप से स्वीकार किया कि उसके हाथ से पिलर व गाड़ी क्षतिग्रस्त हुई व अपने हस्ताक्षर भी जांच कमेटी की प्रोसिडिंग पर किये। जांच कमेटी के समक्ष प्रार्थी के बयानों से यह तथ्य निर्विवाद साबित है कि प्रार्थी ने उसे दिये गये आदेशों/निर्देशों की जानबूझकर अवहेलना करते हुए अपनी ड्यूटी सही अन्जाम नहीं देकर व आदेशों/निर्देशों के विपरित जाकर लापरवाही से गाड़ी चला कर गाड़ी को नुकसान पहुंचाया जिससे अप्रार्थी सं. 1 को अनावश्यक आर्थिक नुकसान पहुंचा। प्रार्थी का उक्त कृत्य स्पष्ट रूप से गम्भीर दुराचरण की श्रेणी में आता है व उसके द्वारा अपने दुराचरणों की स्वीकारोक्ति किये जाने के कारण अप्रार्थी सं. 1 ने प्रार्थी श्रमिक के रोड ग्रेडर को क्षतिग्रस्त करने के कारण उसे अपने पत्र दिनांक 13.5.15 से यह अवगत करवा दिया कि रोड ग्रेडर के क्षतिग्रस्त होन में उसकी लापरवाही सिद्ध होती है व उसके इस कृत्य से अप्रार्थी सं. 1 को लगभग 11 लाख रुपये की हानि हुई है। उसे नौकरी से हटाया भी जा सकता है लेकिन मानवीय आधार पर उसे चालू वर्ष का सालाना इन्कारीमेन्ट रोकने का दण्ड देते हुए व भविष्य में अनुशासन बद्ध होकर कार्य करने आदि की कुछ शर्तों के साथ बहाल रखते हुए उसे इस पत्र की प्राप्ति के 24 घन्टे में अपनी सहमति देने बावत कहा अन्यथा यह मान लिया जावेगा कि वह नौकरी का इच्छुक नहीं है। उक्त पत्र दिनांक 13.5.15 का प्रार्थी को सुपुर्द किया गया था जिसकी पावती उक्त पत्र पर मौजूद है। उक्त पत्र की प्राप्ति के पश्चात प्रार्थी ने ना तो कोई सहमति पत्र उक्त पत्र के सन्दर्भ में प्रस्तुत किया व ना ही कभी अप्रार्थी से आकर भिला व इससे निर्विवाद प्रकट है कि प्रार्थी स्वयं अपनी स्वेच्छा से उपस्थित नहीं हो रहा है व उसके स्वेच्छा से अप्रार्थी की नौकरी छोड़ दी है। उक्त वर्णनानुसार यह प्रकट यह प्रकट है कि प्रार्थी के मामले में अप्रार्थी सं. 1 द्वारा आरोप पत्र दिया गया जाच बिठाई गई जांच में प्रार्थी ने स्वेच्छा से अपना बयान दिया व प्रार्थी द्वारा उसके खिलाफ लगाये गये आरोपों की स्वीकारोक्ति के कारण उसे अप्रार्थी सं. 1 द्वारा पत्र दिनांक 13.5.15 प्रेषित किया जिसका कोई जबाब प्रार्थी ने नहीं दिया व ना ही ड्यूटी पर उपस्थित हुआ। इससे प्रकट है कि प्रार्थी का यह कथन मिथ्या व गलत है कि प्रार्थी के मामले में कोई जांच आदि नहीं बिठाई गई। अंत प्रार्थना की है कि प्रार्थी का स्टेटमेन्ट ऑफ क्लेम निरस्त होने लायक है जो निरस्त फरमाया जावे।

3. उभय पक्षकारान के अधीन पर न्यायालय द्वारा दि. 6.6.17 को प्रकरण में निम्नलिखित विवाद्यक कायम किये गये:—

- आया प्रार्थी के विरुद्ध आरोपित दुराचरणों बावत अप्रार्थी संख्या 1 द्वारा की गई घरेलू जांच प्राकृतिक न्याय के सिद्धान्तों के अनुरूप विधिसम्मत एवं निष्पक्ष है?
- आया अप्रार्थी संख्या 1 द्वारा प्रार्थी के विरुद्ध पारित दण्डादेश दिनांक 13.5.15 विधि सम्मत एवं दुराचरणों के संगत है?
- आया अप्रार्थी सं. 2 के सीमित अधिक के कार्य में संलग्न अप्रार्थी संख्या 1 के यहां कार्यरत प्रार्थी श्रमिक को अप्रार्थी संख्या 1 द्वारा द्वेषतापूर्ण जबरन अवैधानिक तौर पर दिनांक 13.5.15 को सेवापूर्वक कर दिया गया?
- आया प्रार्थी अप्रार्थी संख्या 1 के यहां मय निलम्बन काल के पूर्व वेतन भत्तों एवं सन 2015 के दीवाली बोनस एवं ब्याज सहित सेवा में पुनर्स्थापना का विधिक अधिकारी है?

5. अनुतोष ?

6. आया अप्रार्थी सं. 1 द्वारा प्रार्थी के विरुद्ध आरोपित दुराचरण न्यायालय में सिद्ध किये गये हैं ?
4. दिनांक 6.6.17 की आदेशिकानुसार न्यायालय द्वारा विवाधक 1 को बतौर प्राथमिक विवाधक विनिश्चित किया जाना न्यायसंगत पाया गया और बहस विवाधक सं.1 सुनी जाकर इस न्यायालय द्वारा पारित आदेश दि.24.11.17 से उक्त विवाधक सं.1 अप्रार्थी पक्ष के विरुद्ध तथा प्रार्थी के पक्ष में विनिश्चित किया गया है।
5. तत्पश्चात् प्रार्थी की ओर से ए डब.1 पुष्टेंद्र सिंह स्वयं प्रार्थी की मौखिक साख्य लेखबद्ध करवाये जाते हुए शिकयत दि.7.2.14 की प्रति प्रदर्श डब.1 शिकायत दि.21.1.16 की प्रतियां प्रदर्श डब.16 व डब.31, वेजेज स्लिप की प्रति प्रदर्श डब.2 असल प्रदर्श डब.22 पत्र दि.28.3.15 बाबत् निलंबन की प्रति प्रदर्श डब.3 उसकी असल प्रदर्श डब.24, दंडादेश दि.13.5.15 की प्रति प्रदर्श डब.4 उसकी असल प्रदर्श डब.25, पत्र असल बाबत् प्राप्ति दस्तावेज प्रदर्श डब.5, सूचना प्राप्ति के आवेदन की प्रति प्रदर्श डब.6, पोस्टल ऑर्डर लीफ असल प्रदर्श डब.7, पोस्टल ऑर्डर की फोटो प्रति प्रदर्श डब.8, ए डी पावती असल प्रदर्श डब.9, डाक रसीद असल प्रदर्श डब.10, प्रदर्श डब.27 व 28 एवं फोटो प्रति में प्रदर्श डब.12, प्रदर्श डब.13, नोटिस अधिवक्ता की प्रतियां प्रदर्श डब.11, प्रदर्श डब.15, प्रदर्श डब.26, प्रदर्श डब.32, कंपलेन सेटल्ड रिप्लाई की फोटो प्रति प्रदर्श डब.14, असल प्रदर्श डब.29, प्रदर्श डब.30, प्रार्थना पत्र प्रार्थी बाबत् ज्वाईन करने की प्रति प्रदर्श डब.17 व डब.18 पत्र एवं प्रमाण पत्र अंतर्गत धारा 2 ए आई डी एक्ट की प्रति प्रदर्श डब.19 व डब.20, पी एफ फाईनल सेटलमेंट की प्रति प्रदर्श डब.21 व डब.33 प्रार्थी का नियुक्ति पत्र दि.15.2.13 असल प्रदर्श डब.23 प्रदर्शित करवाये गये हैं। जबकि अप्रार्थी सं.1 की ओर से मौखिक साक्ष्य में एन ए डब.1 नागुन मेन्यूल की साक्ष्य लेखबद्ध करवाते हुए दस्तावेजी साक्ष्य में प्रदर्श एम-1 पत्र दि.28.3.15 बाबत् निलंबन (प्रदर्श डब.3 व डब.24 ही) प्रदर्श एम-2 दंडादेश दि.13.5.15 (प्रदर्श डब.4 व डब.25 ही) प्रदर्श एम-3 जांच कार्यवाही असल प्रदर्श एम-4 जांच प्रतिवेदन की प्रति प्रदर्शित करवाये गये हैं।
6. बहस अंतिम सुनी गयी। विद्वान अधिवक्ता प्रार्थी के अपने स्टेटमेंट ऑफ क्लेम के दोहराव के साथ तर्क रहे हैं कि प्रार्थी को मिथ्या आरोपों के आधार पर कड़ी से कड़ी शर्तें लगाते हुए प्रदर्श डब.25 दंडादेश दिया गया। प्रार्थी ने हमेशा हर शर्त कबूली पर अप्रार्थी सं.1 प्रार्थी को निकालना ही चाहता था और गलत शर्तों की आड़ में प्रार्थी को कार्य पर नहीं लिया। पूर्व में भी प्रार्थी ने अप्रार्थी की वेतन वृद्धि नहीं करने बाबत् शिकायत की थी जिस पर उसकी वेतन की वृद्धि की गयी थी पुनः उक्त प्रकार प्रार्थी को निकालने की अप्रार्थी सं.1 द्वारा कार्यवाही कर दी गयी जिस पर प्रार्थी की ओर से विधिक नोटिस अधिवक्ता के माध्यम से जारी किये गये। प्रदर्श डब.24 के माध्यम से प्रार्थी को निर्दिष्ट किया गया किंतु इसमें अंकितानुसार जीवन निर्वाह भत्ता नहीं दिया गया। प्रार्थी का शोषण नियोजन अप्रार्थी सं.1 द्वारा किया गया। यह उभयपक्षों के आचरण से स्पष्ट है। यह भी स्पष्ट है कि नियोजक पक्ष श्रमिकों का सम्मान नहीं करता है एवं मन-मर्जी की शर्त लगाकर के उनको दबाव में रखता है। प्रार्थी के विरुद्ध अप्रार्थी सं.1 द्वारा की गयी उक्त कार्यवाही भारत के संविधान के अनुच्छेद 21 के विरुद्ध है जिस कारण प्रार्थी ने साढ़े तीन साल सजा भुगत ली उसकी माली हालत खराब हो गयी जिसका तात्पर्य यही है कि वह बेरोजगार रहा है एवं गेनफुल एंपलॉयमेंट में नहीं रहा जो तथ्य परोक्ष रूप से प्रार्थी के स्टेटमेंट ऑफ क्लेम में प्रकट होते हैं। अप्रार्थी के आधार आपस में मेल में नहीं है। अप्रार्थी द्वारा प्रदर्श डब.25 द्वारा व उसकी आड़ में की गयी सेवामुक्ति अवैध है। अंत में प्रार्थी का स्टेटमेंट ऑफ क्लेम स्वीकार करते हुए उसमें चाहा गया अनुतोष प्रार्थी को दिये जाने की प्रार्थना की गयी है।
7. खंडन में विद्वान अधिवक्ता अप्रार्थी सं.1 के तर्क रहे हैं कि प्रार्थी ने अपनी सेवामुक्ति की तिथि अपने स्टेटमेंट ऑफ क्लेम में नहीं दी है उसने स्वयं ने अपने स्टेटमेंट ऑफ क्लेम में अपना नियोजन अस्थाई माना है व जिरह में भी स्वीकार किया है। प्रदर्श एम-1 व 2 पत्र नियोजक का प्रार्थी की ओर से कोई खंडन नहीं किया गया है जिससे एवं जांच कार्यवाही में प्रार्थी की स्वीकारोक्ति से उसके विरुद्ध आरोपित दुराचरण सिद्ध हाते हैं। प्रार्थी ने अप्रार्थी का भारी नुकसान किया जिसको उसने विभागीय जांच में स्वीकारा है बाद में वह काम पर आया ही नहीं व स्वयं ने काम छोड़ दिया। उसके काम पर आने की कोई साक्ष्य भी नहीं है। प्रार्थी कब कब काम पर आया उसकी तिथि ही नहीं बता पाया है। उसने जान-बूझकर के ड्यूटी से अनुपस्थित रहकर के सेवा का उसने अभियन्तन किया है। वह किसी भी अनुतोष का पात्र नहीं है। लाभप्रद नियोजन में नहीं होने बाबत् न तो उसके अभियन्तन है न ही कोई साक्ष्य है। प्रार्थी का क्लेम खारिज किये जाने योग्य है। अंत में प्रार्थी का स्टेटमेंट ऑफ क्लेम खारिज किये जाने की प्रार्थना की गयी है। अपने तर्कों के समर्थन में उनके द्वारा निम्नांकित न्यायिक दृष्टांत भी प्रस्तुत भी किये गये हैं:—
1. 2015 एल एल आर 747 नगर परिषद, बिलासपुर बनाम बोने राम व अन्य,
 2. 2012 एल एल आर 178 सुखदेवसिंह बनाम देहली डवलपमेंट ऑथटी,
 3. 2008 एल एल आर 256 परशुराम शाह बनाम गवर्नरमेंट ऑ एन सी टी ऑफ देहली व अन्य,
 4. 2009 एल एल आर 1135 रीजनल मैनेजर, बैंक ऑफ बडौदा बनाम अनीता नंद्राजोग,
 5. 2010 एल एल आर 656 देहली ड्रांसपोर्ट कारपोरेशन बनाम श्री रिषि प्रकाश,
 6. 2010 एल एल आर 778 सुभाष रामचंद्राङ्कुबरे बनाम महाराष्ट्र स्टेट कॉरपोरेटिव एग्रीकल्वर एंड रुरल डवलपमेंट बैंक लिं व अन्य।
8. उभयपक्षारान् की ओर से दिये गये तर्कों के मद्दे नजर संबंधित विधि व अप्रार्थी सं.1 की ओर से प्रस्तुत न्यायिक दृष्टांतों के अभिमतों को विचार में लेते हुए पत्रावली का भलीभांति गंभीरतापूर्वक परिशीलन किया गया।

9. उभयपक्ष की ओर से आयी उक्त मौखिक व दस्तावेजी साक्ष्य का सूक्ष्म विश्लेषण करने पर यह स्पष्ट है कि प्रार्थी द्वारा अपनी मुख्य परीक्षा के शपथ पत्र में अपने अभिवचनानुसार ही साक्ष्य दर्ज करवायी गयी है। उसके द्वारा प्रदर्शित दस्तावेजों में से शिकायत दि.7.12.14 प्रदर्श डब.1 से उसने मजदूरी नहीं बढ़ाने के बारे में सहायक श्रम आयुक्त के समक्ष अप्रार्थी सं.1 के विरुद्ध शिकायत की है। उसके वेजेज की स्लिप प्रदर्श डब.2 व डब.22 में उसको अप्रार्थी सं.1 का कर्मकार दर्शित किया गया है। पत्र दि.28.3.15 बाबत निलंबन प्रदर्श डब.3 व डब.24 में दि.28.3.15 को प्रार्थी को निलंबित करते हुए इस अवधि का नियमानुसार वेतन दिया जाना भी इसमें अंकित है। दंडादेश दि.13.5.15 प्रदर्श डब.4 व डब.25 से प्रार्थी द्वारा रोड ग्रेडर को क्षतिग्रस्त लापरवाही पूर्वक कर देने से ग्यारह लाख रुपये की हानि पहुंचाने के दुराचरण को अप्रार्थी सं.1 द्वारा विचार में लिया जाकर उसे नौकरी से निकालने की बजाय मानवीयता के आधार पर नरमी का रुख अपनाते हुए चालू वर्ष का सालाना इनकमीमेंट देय नहीं होने, अधिकारियों द्वारा सौंपा गया कार्य करने, रोड ग्रेडर की क्षति की राशि अप्रार्थी सं.2 के संस्थान द्वारा वसूली जाने पर यह राशि प्रार्थी के वेतन के अनुपात से वसूली जाने, भविष्य में अनुशासन बद्ध होकर कार्य करने व प्रार्थी द्वारा अपनी उपस्थिति में सुधार लाने की कुल पांच शर्त लगाते हुए उक्त शर्तों पर कार्य करने का इच्छुक होने पर प्रार्थी को चौबीस घंटों के अंदर अपनी सहमति व्यक्त करने अन्यथा उसका नौकरी करने का इच्छुक नहीं होना मान लिये जाने के तथ्य प्रकट होते हैं। प्रदर्श डब.5.6 प्रार्थना पत्रों, प्रदर्श डब.7 व 8 पोस्टल ऑर्डर व प्रदर्श डब.9 ए डी पावती असल आदि से यह है कि प्रार्थी द्वारा उक्त दुराचरण की कार्यवाही से संबंधित दस्तोवेजों की प्रतियां अप्रार्थी सं.1 से चाहीं गयी हैं। प्रदर्श डब.11 प्रदर्श डब.15, डब. 26 व डब. 32 प्रार्थी के अधिवक्ता के नोटिस की प्रति है जिसमें लगभग इस प्रकरण के स्टेटमेंट ऑफ क्लेम के समान ही तथ्य दर्ज है। प्रदर्श डब.17 व प्रदर्श डब.18 प्रार्थी के प्रार्थना पत्र बाबत ज्वाइन करने की प्रति है जिनमें उसका उक्त दंडादेश दि. 13.5.15 प्रदर्श डब.4 व डब.25 की शर्त सं.3 का प्रमुख रूप से प्रतिरोध किया जाना प्रकट होता है। प्रदर्श डब. 23 नियुक्ति पत्र से प्रकट होता है कि प्रार्थी को अप्रार्थी सं.1 द्वारा अप्रार्थी सं.2 से प्राप्त उसके कार्य की अवधि तक अस्थायी रूप से मजदूर के पद पर रखा गया। उक्त प्रार्थी साक्षी ने अपनी जिरह में साक्ष्य दी है कि मुझे रोड ग्रेडर ऑपरेटर का कार्य करने के लिए 2014 को सबसे पूर्व बाध्य किया था। यह सही है कि मेरे पास प्रदर्श डब्ल्यू-1 की पावती नहीं है स्वतः कहा कि लेटर भेजा था। मैं नहीं बता सकता कि किस तारीख को आए थे लेकिन इसके बाद मैं मेरा वेतन बढ़ा दिया था। यह सही है कि प्रदर्श डब्ल्यू-1 में दबाव से रोड ग्रेडर का काम की बात नहीं लिखी है क्योंकि उस समय मुझसे रोड ग्रेडर का काम नहीं लेते थे। हिन्दुस्तान जिंक ने टेक्नोमिन को 5 साल के लिए काम दिया था यह सही है कि स्टेटमेंट ऑफ क्लेम में 5 साल की बात नहीं लिखी हुई है। मैंने प्रदर्श डब्ल्यू-1 में ए से बी लिखा हुआ है कि वह काम देने से मना कर देते थे। मैं दसवी पास हूँ। प्रदर्श-एम-1 में ए से बी दस्तखत मेरे हैं। प्रदर्श-एम-2 पर भी ए से बी दस्तखत मेरे ही है। प्रदर्श एम-3 पर भी दस्तखत ए से बी मेरे ही है। अजखुद कहा कि यह मुझसे दो बार माफीनामा लिखाया और कहा कि हम आपको नौकरी पर रख लेंगे। प्रदर्श एम-3 पर मैंने दस्तखत बिना पढ़े किए थे। यह कहना गलत है कि अप्रार्थी की जांच रिपोर्ट प्रदर्श एम-3 में दोषी माना हो। अजखुद कहा कि मुझे खाली पेपर पर दस्तखत करवाए थे। यह कहना गलत है कि मुझे प्रदर्श डब्ल्यू-25 प्राप्त होने के बाद मैंकभी डयूटी नहीं गया अजखुद कहा कि मैं रोजाना आफिस के बाहर खड़ा रहता था कोई नहीं पुछता था कि कैसे आए हो। नौकरी के लिए मना कर देते थे। 13.05.2015, 15.05.2015 व 17.5.2015 को मैंने पुनः नौकरी के बाबत प्रार्थनापत्र दिया था। यह सही है कि मैंने उक्त तिथियों को जो पत्र लिखे वह पत्र पत्रावली पर उपलब्ध नहीं है।
10. अप्रार्थी सं.1 का साक्षी एन ए डब.नागुन मैन्यूल मैनेजर द्वारा अपनी मुख्य परीक्षा के शपथ पत्र में लगभग अप्रार्थी के अभिवचनानुसार ही साक्ष्य दर्ज करवायी गयी है। इस साक्षी द्वारा प्रदर्शित दस्तावेजों में से प्रदर्श एम-1 व एम-2 पूर्व में विवेचित प्रदर्श डब.3,4,24 व 25 ही है। जबकि प्रदर्श एम-3 जांच की कार्यवाही एवं प्रदर्श एम-4 जांच प्रतिवेदन की प्रति है जिस जांच के संबंध में पूर्व में किये गये विवेचनानुसार विवरित विवाद्यक सं.1 अप्रार्थी के विरुद्ध व प्रार्थी के पक्ष में विनिश्चित कर दिये जाने के कारण अब जांच संबंधी उक्त दस्तोवेजों का कोई विशेष महत्व नहीं रहता है। उक्त अप्रार्थी साक्षी द्वारा अपनी जिरह में साक्ष्य दी गयी है कि मैं इस कम्पनी में जनरल मैनेजर के पद पर हूँ वर्ष 2013 से हूँ। एम 1 जो हस्ताक्षर है वो ए टू बी प्रोजेक्ट मैनेजर अनील गोटावट के हस्ताक्षर है। प्रदर्श 3 में इन्कावरी में सदस्य था प्रदर्श 3 में हर पृष्ठ पर सी से डी हस्ताक्षर मेरे हैं। प्रदर्श एम 1 में सी से डी कथन सही अंकित किये गये हैं। मुझे इसकी जानकारी नहीं है कि इस अवधि में प्रार्थी को निलम्बन अवधि वेतन दिया गया था नहीं। यह बात सही है कि प्रदर्श एम 3 पर कर्मकार पर जो आरोप लगाया गया है जो दिनांक 20.3.2015 के लिये लगाया गया है। प्रदर्श एम 4 में ए टू बी पार्ट जिसमें इसी मशीन का दिनांक 16.12.2014 के क्षतिग्रस्त होने का विवरण दिया गया है जिसकी कीमत चार लाख बताई गयी है। यह बात सही है कि दिनांक प्रदर्श एम 4 में ए टू बी पार्ट दिनांक 16.12.14 की घटना का विवरण कर्मकार को प्रेषित मैमोरेंडम ऑफ चार्ज में नहीं है। यह बात सही है कि प्रदर्श एम 2 में जिस ग्यारह लाख रुपये की हानि का वर्णन किया गया है उसमें प्रदर्श एम 4 में ए टू बी पार्ट में वर्णित क्षति का सम्मिलित करते हुए दिया गया है। यह बात सही है कि रोड ग्रेडर एक हैवी व्हीकल है। यह बात सही है कि इस वाहन को चलाने के लिये हैवी व्हीकल चलाने का लाईसेंस होना जरूरी है। यह बात भी सही है कि प्रार्थी के पास हैवी व्हीकल लाईसेंस था इसलिये उसे यह कार्य सौंपा था। यह बात सही है कि सन 2014 में कर्मकार ने पहली बार मशीन का डेमज किया जिसमें चार लाख रुपये की क्षति हुई। यह बात सही है कि उक्त क्षति के लिये हमने कर्मकार को कोई चेतावनी पत्र नहीं दिया। प्रार्थी ने 2013 से 2015 तक कार्य किया। यह बात सही है कि कर्मकार के दो वर्ष के कार्याकाल में उसे कोई चेतावनी पत्र दिया हो एसा कोई दस्तावेज पत्रावली पर नहीं है स्वतः कहा कि चेतावनी पत्र दिया था। यह मुझे ध्यान नहीं है कि चेतावनी पत्र कब दिया था। यह बात सही है कि कर्मकार ने एक शिकायत की थी जो कि प्रदर्श डब 1 है वेतन वृद्धि

बढ़ाने के लिये सक्षम अधिकारी को दी थी जिसके बाद हमने एक बार वेतन वृद्धि बढ़ा दी थी । यह कहना गलत है कि प्रदर्श एम 2 मिलने के बाद कर्मकार ड्यूटी ज्योईन करने के लिये लगातार प्रार्थना करता रहा हो अजखुद कहा कि हमने ड्यूटी ज्योईन करने के लिये कहा लेकिन वह नहीं आया । यह बात सही है कि प्रदर्श डब 11 दिनांक 28.8.2015 का है जो हमे प्राप्त हो गया था । यह बात सही है कि प्रदर्श डब 15 विधिक नोटिस जो प्रार्थी द्वारा भिजवाया गया था जो हमे मिल गया था । यह बात सही है कि प्रदर्श डब 15 मे ए टू बी और सी टू डी पार्ट में कर्मकार द्वारा ड्यूटी ज्योईन करने तथा निर्वाह भत्ता व दिवाली बोनस के लिये आग्रह किया था फिर कहा उसे आकर ड्यूटी ज्योईन करनी चाहिए थी । यह सही है कि प्रदर्श डब 18 केन्द्रिय श्रम सदन उपाध्याय नगर पुष्कर रोड अजमेर के समक्ष दौराने समझौता वार्ता भी कार्मिक द्वारा ड्यूटी ज्योईन करने के लिये आग्रह किया गया था फिर कहा कि वहां मामला फाईनल नहीं हुआ था । यदि प्रार्थी अपने कर्तव्यों को सही तौर पर अंजाम देता है तो उसे आज भी कार्य पर लिया जा सकता है । किंतु अब प्रार्थी को हम नई नियुक्ति ही देंगे व जो हम आगुचा में देंगे । यह बात सही है कि हमारी फर्म कायड माईन्स में कार्य कर रही है ।

11. अब हम सर्वप्रथम विवाद्यक सं.6 तत्पश्चात् विवाद्यक सं.2,3 एवं अंत में विवाद्यक सं.4 व 5 एकसाथ विनिश्चित किया जाना न्यायसंगत समझते हैं ।

विवाद्यक सं. 6 :-

12. इस विवाद्यक को साबित करने का भार अप्रार्थी सं. 1 पर रहा है । प्रार्थी पर शराब पीकर लापरवाही से रोड ग्रेडर बिना इजाजत के चलाकर उसके क्षतिग्रस्त कर ग्यारह लाख रुपये का नुकसान कर दिये जाने के दुराचरण के आरोप अप्रार्थी सं.1 की ओर से प्रकट किये गये हैं । इस संबंध में आये अप्रार्थी सं.1 साक्षी एन ए डब.1 नागुन मैन्यूल वक्त घटना मौके पर उपस्थित था ऐसा उसकी साक्ष्य से प्रकट नहीं होता है । क्योंकि उसने अपनी जिरह की साक्ष्य में रोड ग्रेडर क्षतिग्रस्त करने की दो घटनायें दि.16.12.14 की एवं दि.20.3.15 की बतायी हैं किंतु यह प्रकट नहीं किया गया है कि वह उक्त घटनाओं में से किसी घटना के समय उपस्थित था । उक्त दोनों घटनाओं में समयावधि का भी काफी अंतर है । मेमोरांडम ऑफ चार्ज में दि.16.12.14 की घटना का विवरण नहीं होना उक्त साक्षी द्वारा जिरह में स्वीकार किया गया है तथा यह भी स्वीकार किया गया है कि ग्यारह लाख रुपये की रोड ग्रेडर की क्षति उक्त दोनों घटनाओं में हुई है । अप्रार्थी सं.1 की ओर से आयी साक्ष्य का विश्लेषण करने पर यह स्पष्ट है कि प्रार्थी ने उक्त घटनाओं के समय शराब पी रखी हो इसकी कोई माने जाने योग्य साक्ष्य पत्रावली पर नहीं है । प्रार्थी की रोडग्रेडर चलाने में किस प्रकार की लापरवाही रही यह भी अप्रार्थी सं.1 की साक्ष्य से स्पष्ट नहीं होता है । अप्रार्थी सं.1 के साक्षी एन ए डब.1 नागुन द्वारा अपनी मुख्य परीक्षा के शपथ पत्र में प्रार्थी का सुपीरियर श्री कन्हैयालाल इंजीनियर को बताकर के उसकी बिना इजाजत के रोडग्रेडर चलाना दर्ज करवाया है किंतु इस कन्हैयालाल इंजीनियर को अप्रार्थी सं.1 की ओर से साक्ष्य में प्रस्तुत नहीं किया गया है जिससे इजाजत नहीं होने से संबंधित अप्रार्थी सं.1 द्वारा रखे गये तथ्य भी स्वीकार योग्य नहीं रह जाते हैं । इसमें कोई शंका नहीं है कि अप्रार्थी सं.1 द्वारा प्रार्थी से रोडग्रेडर चलवाया जाता था किंतु यह अप्रार्थी सं.1 द्वारा प्रार्थी को मजबूर कर प्रार्थी से चलावाये जाने बाबत प्रार्थी साक्षी ए डब.1 पुष्पेंद्र की रिश्वर साक्ष्य है जिसके संबंध में अप्रार्थी सं.1 की ओर से यह तथ्य रखा गया है कि अप्रार्थी सं.1 हैवी वाहन लाइसेंस धारी चालक था जिसकी प्रार्थना पर ही रोड ग्रेडर चलवाया जाता था किंतु प्रार्थी द्वारा ऐसी कोई प्रार्थना की गयी हो इसकी भी पत्रावली पर कोई साक्ष्य नहीं है । सामान्यतः नियोजक द्वारा ड्वार्का इंजीनियर के वेतन को बचाने की गरज से ही अपने सामान्य मजदूरों से वाहन चलावाये जाते हैं इसमें कोई शंका नहीं है जो ही परिस्थिति हस्तगत प्रकरण में प्रकट होती है । प्रार्थी की ओर से रखा गया यह तथ्य माने जाने योग्य स्थिति में स्थापित होता है कि प्रार्थी से रोडग्रेडर उसे मजबूर कर चलवाया जाता था क्योंकि प्रार्थी को तो प्रदर्श डब.23 द्वारा स्वीकृत तौर पर पर मजदूर के तौर पर ही अप्रार्थी सं.1 द्वारा रखा गया था न कि चालक के तौर पर और यही तथ्य प्रार्थी ने अपने अभिवचनों व साक्ष्य में रखे हैं कि उसको मजदूर के पद पर रखते हुए उसे अप्रार्थी सं.1 द्वारा मजबूर कर रोडग्रेडर चलवाया जाता था जिस साक्ष्य पर वह रिश्वर भी रहा है । जहां तक रोडग्रेडर के क्षतिग्रस्त होने का प्रश्न है, यह क्षति किस प्रकार व रोडग्रेडर के किस भाग की हुई यह भी अप्रार्थी सं.1 की साक्ष्य से प्रकट नहीं होता है । तथाकिथत प्रकार रोडग्रेडर क्षतिग्रस्त होने पर कितने रुपयों का खर्च हुआ इसकी भी कोई साक्ष्य पत्रावली पर अप्रार्थी सं.1 की ओर से नहीं है । अप्रार्थी सं.1 द्वारा ग्यारह लाख की क्षति बतायी गयी है किंतु ऐसे कोई बिल या मेकेनिकल मुआयना रिपोर्ट भी पत्रावली पर नहीं है । इतना ही नहीं प्रदर्श डब.4.25 प्रदर्श एम-2 की शर्त सं.3 में तथाकिथत क्षति की राशि की रिकवरी अप्रार्थी सं.2 के संस्थान की ओर से किये जाने का तथ्य दर्ज है जो यह प्रकट करता है कि रोडग्रेडर अप्रार्थी सं.1 का नहीं होकर अप्रार्थी सं.2 का था तथा रोडग्रेडर अप्रार्थी सं.1 का होने की पत्रावली पर कोई साक्ष्य नहीं है । ऐसी कोई वसूली अप्रार्थी सं.2 द्वारा प्रारंभ की गयी हो ऐसा भी कोई दस्तावेज अप्रार्थी सं.2 की ओर से पत्रावली पर नहीं है । संपूर्ण परिस्थिति में उक्त विवाद्यक के तथ्यों पर साक्ष्य अप्रार्थी सं.1 के विरुद्ध व प्रार्थी के पक्ष में है तथा अप्रार्थी सं.1 उक्त आरोपित दुराचरण प्रार्थी के विरुद्ध न्यायालय में सिद्ध नहीं कर पाया है । परिणामस्वरूप उक्त विवाद्यक सं.6 अप्रार्थी सं.1 के विरुद्ध व प्रार्थी के पक्ष में विनिश्चित किया जाता है ।

13. इस विवाद्यक को साबित करने का भार प्रार्थी पर रहा है। विवाद्यक सं.1 आदेश दि.24.11.17 द्वारा तथा विवाद्यक सं. 6 आज उक्त विवेचनानुसार प्रार्थी के पक्ष में व अप्रार्थी के विरुद्ध विनिश्चत किये गये हैं ऐसे में प्रार्थी पर आरोपित दुराचरणों के आधार पर अप्रार्थी सं.1 की ओर से प्रार्थी के विरुद्ध पारित दंडादेश दि.13.5.15 न तो विधि संगत ठहराया जा सकता है न ही दुराचरण के संगत माना जा सकता है ऐसी परिस्थिति में उक्त विवाद्यक प्रार्थी के पक्ष में विनिश्चित किये जाने योग्य होने से प्रार्थी के पक्ष में विनिश्चित किया जाता है।

विवाद्यक संख्या—'3':—

14. इस विवाद्यक को साबित करने का भार भी प्रार्थी पर रहा है। स्वीकृत तौर से प्रार्थी की नियुक्ति प्रदर्श डब. 23 के माध्यम से हुई है किंतु इसमें वर्णित अप्रार्थी सं.1 का कार्य समाप्त हो गया हो ऐसा किसी भी प्रकार से प्रकट नहीं होता है। प्रार्थी के द्वारा अप्रार्थी के विरुद्ध दि.7.2.14 को भी प्रदर्श डब.1 शिकायत पेश किये जाने पर उसकी वेतन वृद्धि की जाना अप्रार्थी सं.1 के साक्षी एन ए डब.1 नागुन द्वारा स्वीकार किया गया है तथा उक्त विवेचनानुसार विवाद्यक सं.1 व 6 प्रार्थी के पक्ष में व अप्रार्थी के विरुद्ध विनिश्चित किये गये हैं। दंडादेशों प्रदर्श डब. 25/एम-2 के पठन से स्पष्ट है कि इसमें प्रार्थी पर कई शर्तें लगायी गयी हैं तथा इसमें प्रार्थी को चौबीस धंटों का ही सहमति हेतु समय दिया गया है उक्त दंडादेशों के संबंध में विरचित विवाद्यक सं.2 भी प्रार्थी के पक्ष में विनाशित किया गया है ऐसे में उसके तहत प्रार्थी के उपर लगायी गयी शर्तें भी वैध नहीं मानी जा सकती हैं। प्रदर्श-17 व प्रदर्श-18 प्रार्थना पत्र प्रार्थी द्वारा अप्रार्थी सं.1 को दिया जाना प्रार्थी साक्षी द्वारा बताया गया है तथा अप्रार्थी सं.1 के साक्षी एन ए डब.1 नागुन द्वारा अपनी जिरह की साक्ष्य में प्रार्थी द्वारा ड्यूटी ज्वाइन के लिए समझौता वार्ता के दौरान भी कहा जाना अपनी जिरह के दौरान स्वीकार किया गया है। आगे उसने प्रार्थी को अगूचा में नयी नियुक्ति ही देने का तथ्य भी दर्ज करवाया है। प्रार्थी द्वारा उक्त पत्र प्रदर्श-17 व 18 में प्रदर्श डब.25/एम-2 शर्त सं.3 जो कि उक्त प्रकार रिकवरी के बारे में है, का विशेष तौर पर प्रतिरोध किया गया है। अप्रार्थी सं.1 की ओर से यद्यपि प्रार्थी द्वारा स्वयं ही सेवा अभियंजित करने के तथ्य रखे गये हैं किंतु उसकी ओर से प्रार्थी को दिये गये कोई चेतावनी पत्र या नोटिस को प्रस्तुत नहीं किया गया है न ही सेवा पर आने के लिए आहूत किये जाने की उसकी ओर से कोई साक्ष्य है बल्कि उक्त प्रकार प्रदर्श डब.25/एम-2 में उसकी शर्तों मानने के लिए चौबीस धंटों का ही समय दिया गया है जो इस बात का द्योतक है कि अप्रार्थी सं.1 उक्त नाजायज शर्तों की आड में प्रार्थी को काम पर नहीं लेना चाहता था। ऐसे में विद्वान अधिवक्ता अप्रार्थी के यह तर्क माने जाने योग्य नहीं है कि प्रार्थी ने स्वयं ने काम छोड़ दिया हो बल्कि विद्वान अधिवक्ता प्रार्थी के यह तर्क माने जाने योग्य है कि प्रदर्श डब. 25/एम-2 जारी करने के बाद अप्रार्थी सं.1 द्वारा प्रार्थी को कार्य पर नहीं लिया जाकर उसकी अवैध सेवामुक्ति कर दी गयी ऐसे में उक्त सेवामुक्ति दि.13.5.15 से ही माने जाने योग्य है। उक्त सेवामुक्ति से पूर्व अप्रार्थी सं.1 द्वारा प्रार्थी को कोई रिट्रैंचमेंट भत्ता अथवा नोटिस विधि अनुसार नहीं दिया गया है। उसके द्वारा प्रार्थी का सेवा में अभियंजन बताया गया है जो सिद्ध नहीं हुआ है तथा अप्रार्थी की ओर से जो उक्त न्यायिक दृष्टांत प्रस्तुत किये गये हैं वे सभी अभियंजन के बिंदु पर हैं जिनके प्रकरणों में उक्त विवेचित तथ्य नहीं थे जिस कारण उक्त न्यायिक दृष्टांत अप्रार्थी सं.1 की कोई मदद नहीं करते हैं। विवाद्यक सं. 2 के विनिश्चय में उक्त दंडादेश दि.13.5.15 भी वैध नहीं पाया गया है तथा उक्त विवेचित परिस्थिति में प्रार्थी की सेवामुक्ति भी आई डी एकट 1947 की धारा 25 एफ के उल्लंघन में अवैध ही प्रकट होती है। समस्त परिस्थितियों में उक्त विवाद्यक के तथ्य पर साक्ष्य प्रार्थी के पक्ष में है अतएव उक्त विवाद्यक प्रार्थी के पक्ष में विनिश्चित किया जाता है।

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15. विवाद्यक सं.4 को सिद्ध करने का भार प्रार्थी पर रहा है तथा यह विवाद्यक अनुतोष के तथ्यों को संधारित करता है तथा विवाद्यक सं.5 अनुतोष के बारे में है, ऐसे में उक्त दोनों विवाद्यकों को एकसाथ विनिश्चित किया जाना न्यायसंगत है। विवाद्यक सं.1.6 प्रार्थी के पक्ष में व अप्रार्थी के विरुद्ध विनिश्चित किये गये हैं। विवाद्यक सं.2 ता 4 प्रार्थी के पक्ष में विनिश्चित किये गये हैं। विद्वान अधिवक्ता प्रार्थी के यह तर्क सही है कि पत्र दि.28.3.15 बाबत् निलंबन प्रदर्श डब. 24/एम-1 में प्रार्थी को निलंबनकाल का जीवन निर्वाह भत्ता दिया जाना उल्लिखित है यद्यपि इसमें वेतन शब्द दिया गया है किंतु अप्रार्थी सं.1 का यही आशय है। निलंबनकाल में निर्वाह भत्ता दिये जाने की विधि भी है किंतु जीवन निर्वाह भत्ता प्रार्थी को अप्रार्थी सं.1 द्वारा दिया गया हो, यह प्रकट नहीं होता है। अप्रार्थी सं.1 द्वारा अपने अभिवचनों व साक्ष्य में प्रार्थी का जीवन निर्वाह भत्ता लेने नहीं आना बताया गया है किंतु यह तथ्य उनका विश्वसनीय प्रकट नहीं होता है। प्रार्थी प्रदर्श डब.24/एम-1 जारी किये जाने की तिथि दि.28.3.15 से दंडादेश दि.13.5.15 तक निलंबित रहा है तथा इस अवधि में वह जीवन निर्वाह भत्ता प्राप्ति का हकदार है इसमें कोई शंका नहीं है किंतु बोनस का तथ्य प्रार्थी की ओर से स्पष्ट तौर पर प्रमाणित नहीं है। विद्वान अधिवक्ता अप्रार्थी सं.1 के यह तर्क माने जाने योग्य है कि प्रार्थी द्वारा अपने अभिवचनों व साक्ष्य में स्वयं का सेवामुक्ति के पश्चात् लाभप्रद नियोजन में नहीं होना दर्ज नहीं करवाया गया है। इस संबंध में विद्वान अधिवक्ता प्रार्थी के यह तर्क माने जाने योग्य नहीं है कि प्रार्थी के अभिवचनों से यह प्रकट होता है कि वह लाभप्रद नियोजन में नहीं था क्योंकि इसका कोई समुचित आधार प्रार्थी के अभिवचनों में नहीं है। जबकि प्रार्थी की यह आद्यतन जिम्मेदारी थी कि वह अपने अभिवचनों में अपनी सेवामुक्ति के पश्चात् लाभप्रद

नियोजन में नहीं रहने बाबत् आधार लेकर के उन्हें प्राथमिक तौर प्रमाणित करता । उसके पश्चात् उसके खंडन का दायित्व अप्रार्थीगण के उपर आता है । प्रार्थी की उक्त अवैध सेवामुक्ति के पश्चात् उसके लाभप्रद नियोजन में नहीं होने के प्रार्थी के अभिवचन व साक्ष्य नहीं होने से प्रार्थी अपनी सेवामुक्ति के पश्चात् पूर्व पूर्ण वेतन परिलाभ की प्राप्ति का हकदार नहीं पाया जाता है । किंतु प्रार्थी की उक्त प्रकार सेवामुक्ति अवैध पाये जाने पर प्रार्थी अप्रार्थी सं.1 की सेवा में निरंतरता सहित पूर्वत् पुर्नस्थापना का अधिकारी है, इसमें कोई शंका नहीं है । अपर्थी सं.1 के साक्षी एन ए डब.1 नामुन की जिरह की साक्ष्य में प्रार्थी को नये स्थान पर नयी नियुक्ति दिये जाने बाबत् दर्ज कराया गया तथ्य कानूनन स्वीकार योग्य नहीं है । समस्त परिस्थिति में प्रार्थी दंडादेश दि.13.5.15 एवं उसके आधार पर प्रार्थी की उक्त तिथि को अप्रार्थी सं.1 द्वारा की गयी सेवामुक्ति अवैध घोषित करवाते हुए अप्रार्थी सं.1 की सेवा में निरंतरता सहित पूर्वत् पुर्नस्थापना के अनुतोष एवं निलंबनकाल की अवधि के लिए जीवन निर्वाह भत्ता प्राप्ति के अनुतोष का अधिकारी पाया जाता है किंतु पूर्व वेतन परिलाभ एवं बोनस का अधिकारी नहीं पाया जाता है । परिणामस्वरूप उक्त दोनों विवाद्यक उक्त प्रकार ही प्रार्थी के पक्ष में विनिश्चित किये जाते हैं तथा प्रार्थी का स्टेटमेंट ऑफ क्लेम विरुद्ध अप्रार्थी सं.1 उक्तानुसार आंशिक रूप से स्वीकार किये जाने योग्य है ।

आदेश

16. अतः प्रार्थी का स्टेटमेंट ऑफ क्लेम विरुद्ध अप्रार्थीगण आंशिक तौर पर स्वीकार किये जाते हुए अप्रार्थी सं. 1 द्वारा प्रार्थी के विरुद्ध पारित दंडादेश दि.13.5.15 व उसके आधार पर उक्त दिनांक को की गयी प्रार्थी की सेवामुक्ति अनुचित व अवैध एवं शून्य घोषित किये जाते हुए अप्रार्थी सं.1 को आदेश दिया जाता है कि वह प्रार्थी को अपनी सेवा में निरंतरता सहित पूर्वत् अविलंब पुर्नस्थापित करे । साथ ही प्रार्थी को उसके निलंबनकाल की अवधि के जीवन निर्वाह भत्ते का भुगतान भी अविलंब करे । पूर्व वेतन परिलाभ व बोनस के अनुतोष के संबंध में प्रार्थी का स्टेटमेंट ऑफ क्लेम विरुद्ध अप्रार्थीगण अस्वीकार किया जाता है । खर्चा पक्षकारान् अपना अपना वहन करेंगे ।
17. अवार्ड लिखाया जाकर आज दिनांक 29.3.19 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया । अवार्ड की प्रति नियमानुसार संबंधित सरकार को वास्ते गजट में प्रकाशन प्रेषित की जावे ।

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